

**APPENDIX.****PETITIONS AND MEMORIALS.**

Lieutenant Governor Mayes presented a petition from the Texas Federation of Women's Clubs, requesting appropriation for exhibit at Panama-Pacific Exposition.

**COMMITTEE REPORT.**

Committee Room,  
Austin, Texas, July 29, 1913.

Hon. Will H. Mayes, President of the Senate.

Sir: Your Committee on Engrossed Bills, have carefully examined and compared

Senate bill No. 3, A bill to be entitled "An Act providing for the election of United States Senators by a direct vote of the people in accordance with the recent amendment to the Federal Constitution; providing that when vacancies happen in the representation of this State in the Senate of the United States that the Governor may make temporary appointments and shall issue the necessary writs of election to fill such vacancy, and also providing for the holding of primaries by political parties for the nominations of candidates for the United States Senate, and declaring an emergency."

And find the same correctly engrossed.  
BRELSFORD; Chairman.

**NINTH DAY.**

Senate Chamber,  
Austin, Texas,  
Wednesday, July 30, 1913.

The Senate met pursuant to adjournment, and was called to order by Lieutenant Governor Will H. Mayes.

Roll call, a quorum was present, the following Senators answering to their names:

Astin.	Hudspeth.
Bailey.	Johnson.
Brelsford.	McGregor.
Carter.	McNealus.
Clark.	Morrow.
Collins.	Nugent.
Conner.	Real.
Cowell.	Taylor.
Darwin.	Terrell.
Gibson.	Townsend.
Greer.	Warren.
Harley.	Watson.

Westbrook. Willacy.  
Wiley. Absent—Excused.

Lattimore.

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with, on motion of Senator Taylor.

(See Appendix for standing committee reports.)

**ADDITION TO COMMITTEE ON STATE PENITENTIARIES.**

Senator Hudspeth moved that Senator Willacy be added to Committee on State Penitentiaries.

The motion prevailed.

**SIMPLE RESOLUTION.**

By Senator Collins:

Whereas, By resolution passed by the Regular Session of the Thirty-third Legislature, a committee was appointed to hear evidence of and concerning convicts confined in the penitentiary relative to their right to executive clemency under the provisions of the indeterminate sentence law passed by said Legislature; and

Whereas, Said committee has performed its labors with painstaking and great patience, and after hearing much evidence has recommended to the Governor that he exercise executive clemency in about four hundred cases of worthy convicts, who by their good deportment have proven themselves entitled to their freedom and their right again to enter upon the peaceful pursuits of life to earn a livelihood for those whom God has made dependent upon them; therefore, be it

Resolved by the Senate of Texas, That we heartily endorse the action of said committee and tender to it our sincere thanks for its splendid and unselfish service in the interest of humanity, and that we heartily concur in the recommendation of said committee for executive clemency, and that we hereby respectfully implore the Governor to act upon said recommendation and restore to their wives and children those convicts found by said committee to be worthy of their liberty.

The resolution was read, directed to be printed in the Journal and made a special order for tomorrow after the conclusion of the morning call.

## SIMPLE RESOLUTION.

By Senator Townsend:

I move that the report of the investigation committee on State penitentiaries, consisting of about 70 pages, be printed in today's Journal for the information of the Senate.

The resolution was read and adopted. (See Appendix for the report in full.)

## STATEMENT FROM STATE TREASURER.

The Chair had the following read to the Senate:

Austin, Texas, July 30, 1913.

Hon. Will H. Mayes, President, and Members of the Senate, Capitol.

Gentlemen: In view of the fact that the sum of \$486,250 was received from the Standard Oil Company, and paid into the State Treasury Department some eight days ago, and it being my desire to conform to the wishes of the Legislature; this money has been held in this department awaiting legislation making final disposition of same, but as no definite action has been taken, and as Article 4367 of the Revised Statutes of 1911, states plainly and clearly how all money shall be paid into the State Treasury, I do not feel that I should take any further responsibility by longer holding this money in suspense, so I have asked for a deposit warrant, placing the entire amount to the credit of the general revenue fund.

However, as both bodies of the Legislature have recommended that the A. and M. 3 per cent bonds should be redeemed out of this fund, I will hold \$205,000 of this amount for a short while until action can be taken in the matter, and will issue a call for outstanding warrants to the amount of \$281,250, to cover the balance, which will pay all outstanding pension warrants, in addition to all regular revenue warrants issued up to the 10th day of June.

I will appreciate it very much if you will take prompt action in making disposition of the \$205,000 which I am holding.

Yours respectfully,

J. M. EDWARDS,  
State Treasurer.

## HOUSE MESSAGE.

Hall of the House of Representatives,  
Austin, Texas, July 30, 1913.

Hon. Will H. Mayes, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House ordered the following resolution returned to the Senate:

Senate Concurrent Resolution No. 1, Relating to the Standard Oil fine; the House holds the amendment germane.

Respectfully,

W. R. LONG,

Chief Clerk, House of Representatives.

## SIMPLE RESOLUTION.

By Senator McNealus:

Resolved, That the chairman of the Committee on Contingent Expenses of the Senate, the chairman of the Committee on Public Printing and the President of the Senate be appointed as a special committee to call upon the person having the contract to do the Senate printing in connection with the Report of the Special Joint Legislative Committee that investigated Penitentiary Affairs, and learn definitely when the Senate will receive the printed report; also that the Senate take such action as it may deem proper after receiving the report of this special committee.

WARREN,  
McNEALUS.

The resolution was read and Senator Willacy offered the following amendment:

Insert after the word "report," on page 2, line 6, the following: "and the cost of same, and said committee is further directed to ascertain whether or not the printing referred to herein can be contracted to any other printing house or firm and, if so, the price, terms and conditions."

The amendment was read and adopted.

Senator Brelsford offered the following amendment to the resolution:

Resolved, That the President of the Senate, chairman of Public Printing Committee and chairman of Contingent Expense Committee, be authorized as a special committee of the Senate to at once have printed 500 copies of the Penitentiary Committee's report, depositions and exhibits, to be printed by any public or private printer and to be paid for out of Senate contingent fund of Senate and to be printed for use of Senate.

The resolution was read and adopted, as amended.

#### EXCUSED.

On account of important business:

Senator Watson for yesterday, on motion of Senator Hudspeth.

#### VOTE ON SENATE CONCURRENT RESOLUTION NO. 2 RESCINDED.

Senator Warren moved that the Senate rescind the vote by which the amendments to Senate Concurrent Resolution No. 2 was concurred in on yesterday.

The motion prevailed.

Senator Warren moved to rescind the vote by which the Senate ordered 500 copies of the Penitentiary Investigating Committee on yesterday.

The motion prevailed.

#### BILLS AND RESOLUTIONS.

By Senators Wiley and Darwin:

Senate bill No. 7, A bill to be entitled "An Act to amend Article 1314, Revised Statutes, prescribing conditions upon which foreign corporations may obtain permits to do business in Texas, and providing penalties for violating the provisions of this act."

Read first time and referred to Judiciary Committee No. 2.

By Senators Willacy, Astin, Harley, Warren, Johnson, Taylor and Real:

Senate bill No. 8, A bill to be entitled "An Act to amend Chapter 150, General Laws, passed at the Regular Session of the Thirty-third Legislature, relating to application for witnesses in felony cases so as to repeal Section 4 of said Chapter, which provides for the payment of one dollar and fifty cents per day for each day that witnesses residing in the county of the prosecution may have been necessarily absent from their homes or business in attendance upon court, and declaring an emergency."

Read first time and referred to Judiciary Committee No. 2.

By Senator Morrow.

Senate bill No. 9, A bill to be entitled "An Act to amend Chapter 132 of the Acts of the Regular Session of the Thirty-third Legislature, to provide for the indeterminate sentence of persons convicted of felony, and for the termination of such sentence and to provide for the

parole and release of convicts, to provide for the recapture and punishment of convicts violating the conditions of their parole and to provide for keeping the record of facts relating to convicts by certain officers and employes of the Board of Prison Commissioners and the transmission of such record of the Governor of the State, to repeal all laws and parts of laws in conflict herewith, and declaring an emergency."

Read first time and referred to Committee on State Penitentiaries.

#### RECESS.

On motion of Senator McNealus, the Senate recessed until 3:30 o'clock p. m., today.

#### AFTER RECESS.

(Afternoon Session.)

The Senate was called to order by Lieutenant Governor Mayes.

The Chair called the regular order as unfinished business, and there being no further business, declared the morning call concluded.

#### SIMPLE RESOLUTION.

(By Unanimous Consent.)

By Senator Gibson:

Resolved, That the Senate defer action upon all confirmations until 3 p. m., August 14, 1913, and that the Senate go into executive session at that time.

GIBSON,  
HUDSPETH,  
WATSON,  
CONNER,  
TAYLOR,  
CLARK,  
MORROW,  
CARTER,  
GREER,  
MCGREGOR,  
HARLEY,  
BRELSFORD,  
BAILEY,  
NUGENT.

(President Pro Tem. Carter in the chair.)

The resolution was read, and Senator Collins offered the following amendment:

Amend the resolution by striking out "August 14th" and insert in lieu thereof "August 12th."

COLLINS,  
WATSON,  
CLARK.

The amendment was read and adopted. The resolution was then read and adopted, as amended.

The Senate was at ease, subject to call of the Chair.

#### ADJOURNMENT.

At 4 o'clock p. m. the Senate was called to order by Lieutenant Governor Mayes, and on motion of Senator Warren the Senate adjourned until 10 o'clock tomorrow morning.

#### APPENDIX.

##### PETITIONS AND MEMORIALS.

By Senator Gibson:

From citizens of Fannin county desiring that the Governor submit to the Legislature the subject of regulating the practice of massage.

##### COMMITTEE REPORTS.

Committee Room,  
Austin, Texas, July 30, 1913.

Hon. Will H. Mayes, President of the Senate.

Sir: Your Committee on State Penitentiaries, to whom was referred

Senate bill No. 6, A bill to be entitled "An Act to amend Chapters 1 and utes of 1911, the same being an act passed by the Fourth Called Session of the Thirty-first Legislature, and entitled 'An Act to establish a prison system and declaring the policy of the State with reference there,' and declaring an emergency,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass, with amendments.

Amend Senate bill No. 6, "that the salary of business manager shall not exceed \$5000 per annum."

HUDSPETH, Chairman.

Committee Room,  
Austin, Texas, July 29, 1913.

Hon. Will H. Mayes, President of the Senate.

Sir: Your Committee on Finance, to whom was referred

House bill No. 1, A bill to be entitled "An Act making appropriations to pay

salaries of judges, and for the support of the Judicial Department of the State Government, for two years, beginning September 1, 1913, and ending August 31, 1915, and declaring an emergency."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass, and that the bill be printed.

WILLACY, Chairman.

##### REPORT OF PENITENTIARY INVESTIGATING COMMITTEE.

Austin, Texas, July 24, 1913.

To the House of Representatives of the State of Texas:

Gentlemen—Complying with the terms of House Concurrent Resolution No. 27, your committee appointed to investigate the financial record and transactions and general business conduct of the penitentiary system of the State of Texas, herewith submits a copy of the report this day filed with the Governor of its investigation, together with its recommendations for such changes and reforms as to the committee seems advisable.

The evidence and statements taken before the committee and made a part of said report will be forwarded to you by the committee tomorrow.

We also submit minority report by Hon. R. B. Humphrey, member of the committee upon the part of the House.

Respectfully yours,

WILL H. MAYES,

Chairman of the Committee.

Hon. O. B. Colquitt, Governor of Texas,  
Austin, Texas.

Sir: The financial statements of the penitentiary system for the years 1911 and 1912, disclosing a constantly increasing indebtedness on the part of the system, amounting on January 1, 1913, to \$1,528,458.04, directed public attention to the management of the institution, and suggested a critical analysis of the law under which the prison system is being conducted. This led to suggestions for a broad and painstaking inquiry into the operation of the entire penitentiary system, and culminated in the passage by the Legislature of House Concurrent Resolution No. 27.

This resolution authorized the appointment of a committee of the Senate and House, composed of the Lieutenant Governor, and two members of the Senate and three members of the House, which

committee was "authorized and instructed to investigate the financial record and financial transactions, and the general business conduct of the penitentiary system as far back as said committee, in its discretion, may deem advisable"; and provided that "said committee shall make a report to the Governor, recommending such changes or reforms in the financial conduct of the penitentiary system as they may deem advisable, and shall report, in full, to the Governor all valuable, pertinent information which they may be able to obtain with reference to the financial conduct of the penitentiary system."

The committee entered upon the investigation ordered by the Legislature and approved by yourself, on April 23, 1913, following the adjournment of the Regular Session of the Thirty-third Legislature, and has conducted such inquiries as seemed practicable to its members and in keeping with the spirit of the resolution creating the committee; and such as were deemed essential to elicit information justifying the committee in the formation of recommendations for the establishment of a sound public and business policy in the management of the State prison system. The record of these inquiries in detail is submitted with this report as a part thereof.

In its investigations the committee has sought to ascertain every material fact in the management of the prison system; and has endeavored in its study of the subject to take into consideration every factor entering into this complex problem. The investigation has been upon broad lines, calculated to determine causes and fix responsibility for present unsatisfactory conditions; and intended to develop policies and details of management leading to the establishment of a prison system upon a basis responding alike to the enlightened humanitarianism and the experienced business judgment of the day. In all its labors the committee has kept before it a realization of the fact that its most important duty lay in the acquisition of such data as would justify comprehensive recommendations of a constructive character.

In pursuance of this policy the committee has sought information from every available source that appeared profitable; from managers and employes of the prison system, present and past, and from citizens whose business experience, judgment and observation of the operations of the prison system qualified them to render efficient aid in the solu-

tion of the problem. Statements and recommendations herein submitted are the mature conclusions adduced from a careful review of these inquiries, and a thoughtful study of the questions involved in the conduct of the State penal system.

Necessarily, in the time at its disposal, the committee has been able to cover only the more important features of penitentiary management, and many questions of detail contributing in some degree to the present condition of prison system finances, or of more or less interest, as information concerning the conduct of the system, have not been inquired into because of lack of time.

In the presentation of its conclusions the committee has separated its report into two natural divisions, the first dealing with conditions under which the penitentiary has been conducted in the past and the policies that have affected in varying degrees the management of the institution and consequently are responsible, directly or remotely, for the existing situation, together with the committee's analysis of present conditions; and, secondly, the presentation and discussion of such policies and changes in the law and in the management of the penitentiary as has seemed to the committee best calculated to meet the demands of the future.

The committee did not enter into an investigation of the conditions surrounding the purchase by the State from the Imperial Sugar Company, of what is now known as the "Imperial State Farm," for the reason that the State is now involved in defending suit brought by the vendor for recovery of this property and for large damages, charging violation of the contract of sale upon the part of the State. This matter is now in the hands of the Attorney General, and, although the terms and conditions of this transaction are open to serious criticism, it is our opinion that with certain facts before us, we should leave it for judicial ascertainment without further comment.

#### Historical.

The Huntsville prison was established in 1849, and the earliest reference made to the Rusk penitentiary was in 1870, when the report shows two men were received there. In 1870 the Huntsville penitentiary and the entire convict population of 489 was leased to Ward, Dewey & Co., which lease continued in effect until the latter part of 1877, when the penitentiary was leased to E. H. Cunningham and L. A. Ellis, the contract

beginning in 1878 and continuing for five years. There were at this time 1569 convicts, and the most reliable information would indicate the price paid by the contractors was approximately \$3 per month per man, the State being relieved of all financial responsibility for the maintenance of the convicts.

At the end of their five-year lease, Cunningham and Ellis offered to renew it for a term of fifteen years, the maximum term the statutes permitted at that time; while Morrow, Hamblin & Co. offered to lease the Rusk penitentiary for a like period. The Eighteenth Legislature refused to ratify this lease, which action marked the end of the plan of leasing the penitentiaries as a whole, and the beginning of what is known as the convict lease system, under which men were leased in such numbers as contractors desired. The first leases were made at the price of \$15 per month, the contractors furnishing houses and food for the convicts and guards, the State bearing other expenses and employing and paying the guards. The State's portion of the expense was estimated at \$9 per month per man, netting \$6 on the contract. It may be of interest to note that the contractors were to get ten hours of labor a day. In 1898 a provision was inserted in the lease contract whereby the State was to feed all convicts under lease, the sum of \$4.50 per month being added to the contract price, this being the sum estimated as necessary to feed the men.

During the superintendency of J. A. Herring, the contract price of labor was raised to \$29 and \$31 per month, although prior to that time railroads and mining companies had paid as much as \$35 per month for convict labor, the State in each instance feeding, clothing and guarding the men.

The contract lease policy continued without interruption until the investigation of the special committee in 1909 disclosed the abuses that had grown up under long years of operation, resulting in the passage of the present statute directing the abolition of that policy, which facts are too fresh in the public mind to need further comment in this connection.

#### Audits.

The committee did not undertake an independent audit of the books of the prison system. In 1909 the special legislative investigating committee secured an audit by the Corporation Audit Company, public accountants of Dallas, which covered the period from Novem-

ber 1, 1900, to August 31, 1909. By direction of the present Prison Commission, upon the suggestion of your Excellency, an audit was made by F. J. Huey, certified public accountant of Houston, covering (1) the operations of share farms from January 1, 1910, to January 20, 1911; (2) the operations of the prison system from April 1, 1910, to December 31, 1911; and (3), the operations of the system for the year ending December 31, 1912.

When the new law became effective January 20, 1911, it provided for the appointment of an auditor for the system, Mr. A. M. Barton being appointed to that position, and his report was available, covering the period of his occupancy of the office. In March of this year, Mr. J. M. Moore was appointed auditor to succeed Mr. Barton, and the committee also had the benefit of his investigation of the financial transactions of the system. Under the circumstances it did not appear to the committee that another special audit would be justified or would disclose any fact not already known. If these audits were unreliable to determine what the records of the system show, the committee felt that it had no assurance another special audit, involving additional expense, would be any more likely to discover inaccuracies or irregularities. The audit made by the Corporation Audit Company, covering the years from November 1, 1900, to August 31, 1909, contained a large amount of valuable information respecting the operations of the prison system, and it would appear to the committee, has never been studied to much advantage either by the prison management, the State officials or by the public.

The Corporation Audit Company, in their report direct attention to the fact that for the period covered by their investigation the books had been closed only at the end of each two years; that forced balances were necessary to start with, and that at varying periods during the nine years reviewed by them the books relating to the business transactions of the prison were kept in such manner as to be practically without value, but that beginning with 190 the accounts had been fairly well kept, though the balances at the beginning of that period had been forced.

During the past three years, and since the first of the audits mentioned was made, notable improvements have been effected in the accounting methods of the institution, but the accounting system is signally inadequate in import-

ant details, and it is imperative that many improvements must still be introduced before an institution of the magnitude of the penitentiary system can be administered upon a basis of business efficiency.

This committee has reviewed all the audits since 1900, and it is our conclusion that while the records may show, with a fair degree of correctness, most of the transactions of the prison system, such records are inaccurate and unreliable to disclose the profitability or unprofitability of any particular industry or business activity of the penitentiary system.

It appears that in the operations of farms or factories, items carried in one account during one period or under one management were carried in some other account at another time or by other accountants. This fact alone is sufficient to render it impossible to ascertain accurately the cost of production of different manufactured articles or the exact cost of producing various crops. The system of exchange between factories and farms appears in many instances to have been carried on upon a more or less arbitrary plan, lacking in uniformity throughout the system, and frequently independent of considerations of actual cost of producing the articles exchanged, or the value of such articles in the open market. Such illogical plans may have had the effect of showing arbitrarily a profit for a department of the system when actual conditions, including each element of cost in production of the article, would disclose the lack of net earnings, or a loss.

#### Losses at Rusk and Huntsville.

We have given careful consideration to the various manufacturing enterprises carried on at Huntsville and at Rusk, as indicated by the testimony before the committee, and the special reports secured from managers of the different departments; and while the methods of accounting do not provide absolutely correct information concerning the operations of each industry, as before stated, we are forced to the conclusion that no manufacturing industry undertaken by the prison system shows conclusively that it has ever been conducted at a profit; or, if so, certainly not for any appreciable length of time, notwithstanding certain factories in the Huntsville prison show a book profit for certain years.

Our investigation leads us to accept as the minimum loss in the nine years from November 1, 1900, to September 1,

1909, the amount indicated by the report of the Corporation Audit Company, which places the loss at Rusk at \$863,734.72, and that at Huntsville at \$352,168.71. These amounts are reached by an arbitrary credit for labor of \$609,518.32 at Rusk, and of \$448,396.95 at Huntsville, which credits are made presumably because a proportionate part of such labor credit was charged against the different industries in the two prisons. If each of the activities of the prisons was charged with the labor employed by it, then such credit is not only permissible but essential to a proper balance of the account. If the different industries were not so charged, however, and the only evidence of the charge is in the credit itself, the loss sustained would be, for Rusk, \$1,473,253.04; and, for Huntsville, \$800,565.66.

Accepting the statement of Financial Agent W. M. C. Hill, in his official report on August 31, 1902, that "Rusk at this time is due the system \$1,565,678.20, being the cost above total receipts for fifteen years," and adding thereto the subsequent losses to December 31, 1912, after absorbing all receipts, and allowing a credit of \$609,518.32 for convict labor, the Rusk penitentiary has cost the State \$2,328,305.54 above total earnings for only that part of its existence for which partial records are available.

The report of the Corporation Audit Company is illuminating as to the conditions prevailing in the management of the Rusk penitentiary for the period covered by their audit. To quote that report:

"The principal industry at Rusk is that of manufacturing pig iron and cast iron piping; the records will not permit of any intelligent report on the cost of manufacturing iron pipe, etc. We made special effort to find records of some description that would enable us to give an intelligent report on this branch of the system, but after compiling what figures we could find from various pencil memoranda, any results gathered therefrom would be misleading and without value. An idea of the records at Rusk is found in a notation on one of the books, saying, 'These few days' operations of the furnace is left blank because the furnaceman refused to make daily report.'"

The report gives the loss from operation of the iron industry at Rusk for the period covered by their examination, "Without any proportion of the general expenses and without any charge for the

salaries of the general manager and superintendents," as \$297,657.86.

It is needless to say that had the iron industry been charged with its rightful share of the general system expense, and also special salary and other expenses, the loss chargeable to this industry would be greatly augmented.

The efforts by the State to develop the iron industry at Rusk present one uninterrupted record of financial disaster. Coke is not accessible, lime rock expensive to secure, and the difficulties and cost of mining and moving the ore render it an undertaking calculated to tax the business acumen, and the executive ability of private enterprise to the utmost, which facts preclude the possibility, in the judgment of this committee, that the State can ever hope to operate this industry without tremendous loss. It is doubtful if there can be found in the history of the United States an illustration of the use of public funds for the development of natural resources upon purely sectional demands, without system or attempt at business management, and subjected to the vicissitudes of changing administrative policies, as indefensible as that presented in the attempt to promote this iron industry. The establishment of a part of the penitentiary system at Rusk, and the expenditure there of hundreds of thousands of dollars, in furnace and smaller industries, tells an impressive story of the costliness to the people of such experimental policies. The genius of modern commercial enterprise may, in the course of time, place the iron industry in East Texas upon a profitable basis, but the unbusiness-like attempts of the State at development of that industry promise only a continuing exhibition of stupendous folly prejudicial to development by legitimate industry, and emphasizing not alone the absence of business policies in affairs of the State, but apparently the inability of the State to legislate with reasonable regard for business considerations.

We have considered the iron industry at Rusk with regard to the contract entered into between Your Excellency on behalf of the State and private parties for the operation of the State furnace, and have carefully inquired into the probability of profitable employment of convicts in mining the ore and delivering it to the furnace, and although the State's heavy investment in the Rusk plant suggests the importance of extraordinary efforts to derive the largest possible returns to the State from the

proposed operation of the furnace, through the employment of a considerable force of convicts at remunerative wages, it is the conclusion of the committee that, under the terms of the contract, convicts cannot be used with profit in this work; and that the best interests of the State will be subserved by selling the ore to the lessees in the beds, notwithstanding the price named in the contract is negligible. It no doubt was advisable to lease the Rusk furnace for the period stipulated in the contract for the purpose of inducing private enterprises to undertake the development of the iron industry of East Texas; at the same time, we feel we should suggest that so long as private parties are able to lease these valuable properties at the price to be paid, they are unlikely to endeavor to purchase, at a reasonable valuation.

#### Revenues, 1901 to 1910.

With the idea of presenting a comparison of the cost of per capita maintenance of the convicts under the old law and under the new, the committee ascertained as nearly as the records disclose the receipts of the system for the preceding ten years. When an effort was made to figure the relative cost, it was found that no equitable plan could be devised upon which to make the desired comparison. For example, there was nothing in the books of the preceding years, or the audits covering that time, to show that a charge for labor had been made in all the units of the system; nor was the record of expenditures for permanent improvements and betterment sufficiently reliable to justify the assumption that the total of such expenditures, or even any material proportion of them, had been accounted for. Therefore, owing to the differences in the accounting record, and lack of complete detailed statements showing receipts and expenditures, and operating, maintenance and overhead expenses, any comparison of per capita cost of conducting the prison system would be of no value.

As furnishing pertinent information respecting the financial history of the prison system, however, the statement of sources of revenue for the years indicated will be found of special interest.

The total of appropriations for these ten years was:

For the biennial period ending August 31, 1902 .....	\$135,625 00
For 1903-4 .....	385,996 78
For 1905-6 .....	77,619 99



For 1907-8 ..... 21,510 00  
 For 1909-10 ..... 164,485 45

Total ..... \$785,237 22

The income from State farms for the ten-year period was \$1,621,219.16.

During this period the Harlem, Clemens and Wynne farms were operated all of the time, the Ramsey farm for three years and Imperial farm two years.

From the operation of share farms the receipts for the ten years were \$2,900,008.28.

These share farm receipts were derived from the operations of the Williams, Farris, Dunovant, Johns, Stratton, Spiller, Whatley, Johnson, Walnut and Eastham farms.

Miscellaneous gross receipts, including the output of the Rusk and Huntsville prisons, the Texas State Railroad and the Star State sawmill in this period aggregated \$3,036,677.60.

The terms under which the share farms were worked were that the State receive 60 per cent and the landowner 40 per cent of the products, the State furnishing the men and feeding, clothing and guarding them, while the landlord furnished teams, tools and feed for the teams, as also buildings in which to house the men.

The receipts during the ten years named from convict lease labor contracts were for—

1901 .....	\$376,948 43
1902 .....	375,556 47
1903 .....	399,584 76
1904 .....	417,836 72
1905 .....	404,235 74
1906 .....	428,382 80
1907 .....	417,441 47
1908 .....	473,135 89
1909 .....	460,381 41
1910 .....	344,735 85

The grand total of receipts from the four sources named in the records of the prison system for the years indicated is \$12,405,821.06.

During this period the property account of the prison system was increased by the purchase and payment for the Ramsey farm at a cost of \$106,727.50, and the Imperial farm at a cost of \$160,000.

For the four years immediately preceding the date on which the new law became effective the receipts from lease contracts were the greatest of any four years in the history of the prison system, being \$1,695,694.66, or \$45,654.64 more than for the preceding four years.

In his statements before the committee, Judge W. H. Gill, chairman of the

Prison Board during the four years preceding the present law, commenting upon the lease system, said:

"I understand the lease system should have been abolished in 1914. They were to give us three years to wipe it out. Will say here that it was the policy of our administration and the preceding administration to abolish the lease system without reference to the date fixed by law. I think now it was a mistake to have done it as it was done. The law ought to have done it in a different way. Under the lease system the State housed its convicts, clothed its convicts, fed its convicts, and at its own expense, just like it does on its farms. They were handled by guards employed by the State, and they were under the control of a sergeant controlled by the State, and it was up to the sergeant to say whether and how many hours they should work, but there was always a danger of abuse, and the owner of a plantation who was paying \$31 per month for convicts had the temptation before him all the time to induce the guards to overwork the convicts, and there was that danger whether it actually occurred or not, that the guard or sergeant might be corrupted. That was the only harm I knew of the lease system while I was in office. I know of occasions of overwork. I know by hearsay, there were some pretty hard drivers, but I don't know if it exceeded then what free labor is forced to do in emergencies where they are threatened with a freeze or their crops are in the grass. I never saw them work any harder than the free negro on the farm does. There was no reason why, if the lease system had been properly abandoned, the State might not have found ample work for their convicts on the farms, for there were plantation owners with land planted to cane, and other lands with other crops that the State could either have got for money rent or part of the crop. We worked the Sugarland plantation that way when I went out of office, and they made it a paying proposition, too, I think."

By reference to the penitentiary records it is shown that the statement of Mr. Gill to the effect that the administration of which he was a part, as well as the previous administrations, had followed the policy of eliminating the lease system is borne out. The fact that the administration of Judge Gill was directed towards the increased employment of convicts on share farms is also indicated. In 1906 there were 1772 men leased to contractors, and 452 worked on share

farms; and in 1910 there were 1056 men leased to contractors and 821 were worked on shares.

Under these circumstances, of a constant decrease in the number of leased men, the fact that the four years covered by Judge Gill's administration shows the largest receipts from the sale of labor requires explanation. This explanation is found in the increase during that period of the charge of leased labor to \$31 per month, while the railway and mining companies paid \$35 per month.

#### Present Indebtedness.

In the endeavor to present in full detail the present indebtedness of the prison system in such manner as will enable the Legislature to secure a comprehensive idea not only of the indebtedness but of the assets and liabilities and of the operation of the various departments of the system, the committee submits herewith a series of statements bearing upon the financial operations of the system.

Statement No. 1 presents the assets and liabilities of the system on December 31, 1912, as also surplus from operations. It will be observed that the Rusk State Railroad bonds of \$100,000 is being carried as a liability, while the prison system is carrying as an asset \$91,070.53 in its general account for money paid out on account of the railroad, which would leave a balance of \$8929.47 in favor of the system. Full detail of these accounts may be found in the records of the prison system or may be derived from the special audit of certified public accountant, F. J. Huey, for the year 1912.

#### Assets and Liabilities of Prison System.

Assets.	
Cash .....	\$ 38,772 24
Bills receivable .....	33,608 71
Accounts receivable .....	276,290 45
Texas State R. R. (general account) .....	91,070 53
Property accounts .....	3,876,161 49
Huntsville, Rusk and Farms—	
Inventories —	
Operating Huntsville penitentiary .....	\$158,815 50
State farms. ....	262,126 50
Share farms. ....	18,794 68
Rusk penitentiary .....	41,880 50
	<u>481,617 18</u>
	\$4,797,500 60

#### Liabilities.

Capital .....	\$2,195,214 91
Appropriations .....	310,000 00
First mortgage R. R. bond. ....	100,000 00
Bills payable. ....	\$912,374.93
Accounts payable .....	441,107 08
Pay roll .....	25,807 18
Per diem due convicts ..	112,713 81
Accrued interest and taxes .....	36,455 04
	<u>1,528,458 04</u>
Surplus .....	\$ 662,827 65
	<u>\$4,797,500 60</u>

#### Statement Expenditures and Indebtedness Incurred, January 20, 1911, to December 31, 1912.

Statement No. 2 shows the total expenditures of January 20, 1911, to December 31, 1912, in excess of the earnings of the system for the two years; or, in other words, this statement shows the assets created out of the indebtedness incurred during this period, as also exhibiting the losses sustained from the operations of the system during the period. The statement also shows the appropriations by the Legislature for the two years; the amounts due sundry individuals and companies, as also the amount of cash spent during that period in excess of the amounts received.

Full details of the operations of the prison system will be found in the audit of Accountant F. J. Huey on file.

Expenditures for buildings, live stock equipment, etc. ....	\$ 652,086 92
Addition to inventories of operating supplies .....	82,954 82
Additions to accounts and bills receivable .....	271,923 52
Loss from operations, farms and industries, 1911....	375,287 15
Loss from operations, farms and industries, 1912....	416,753 20
	<u>\$1,802,005 31</u>

The penitentiary indebtedness being in excess of earnings December 30, 1912, is as follows:

Incurred during period January 20, 1911, to December 31, 1912:	
Appropriations by State. ....	\$ 310,000 00
Accounts payable in notes, pay rolls and interest accrued and per diem due convicts .....	1,461,299 49
	<u>\$1,791,299 49</u>

Cash on hand January 20,  
1911, in excess of amount  
on hand December 31,  
1912 ..... 10,705 82

\$1,802,005 31

Financial condition July 1, 1913:

Indebted-  
ness Dec.  
31, 1912. \$1,528,458 04

Indebted-  
ness July  
1, 1913.. \$1,656,835 47

Appropriations by  
33d Legis-  
lature ... 550,000 00

Receipts of  
prison sys-  
tem Jan-  
uary 1,  
1913, to  
July 1,  
1913 .... 59,747 15

Balance in  
State  
Treas-  
urer's of-  
fice July  
1, 1913.. 192,969 42

\$1,721,427 46 \$2,266,582 62

Increase in  
indebted-  
ness from  
January  
1, 1913, to  
July 1,  
1913 .... 545,155 16

\$2,266,582 62 \$2,266,582 62

From this statement it will be deter-  
mined that the expense of conducting  
the prison system is now approximating  
the sum of \$1,000,000 per annum. It is  
proper to state, however, that the ex-  
penditures for the first half of the year,  
being the season of heaviest expense in-  
curred in planting and cultivating the  
crops, may be somewhat in excess of  
those for the remainder of the year.

It will also be seen that the receipts  
thus far reported during 1913 amount  
only to \$59,747.15, the remainder of the  
expenditure for the current year being  
derived from the cash appropriations.  
Attention should be directed to the fact  
that the period represented in this state-  
ment covers that portion of the year  
when there are practically no receipts  
from the operations of the prison sys-  
tem.

Statement No. 3 shows the actual cash  
receipts, and the actual cash disburse-

ments from January 20, 1911, to Decem-  
ber 31, 1912. The statement does not  
include sales by system industrial de-  
partments to the farms, or department  
exchanges, for which a book charge only  
is made. It will be observed that the  
cash on hand January 20, 1911, was  
\$49,478.06, and the cash on hand Decem-  
ber 31, 1912, was \$38,772.24, the differ-  
ence of \$10,705.82 being shown as cash  
disbursed on statement No. 2.

Cash on  
hand Jan-  
uary 20,  
1911 .... \$ 49,478 06

State appro-  
priations \$ 310,000 00

Borrowed  
from  
banks and  
share  
farm con-  
tractors . 252,246 34

Sale of  
crops,  
mfg. prod-  
ucts, etc.. 1,075,578 14

Received  
from  
lease  
contract-  
ors ..... 212,395 55

1,830,220 03

\$1,879,698 09

Less Disbursements—  
Pay rolls \$ 630,472 41

Transfer  
agents'  
salaries . 7,140 00

Convict  
per diem. 90,162 02

Food, sup-  
plies, live  
stock, im-  
prove-  
ments,  
equip-  
ment and  
repairs .. 1,113,151 42

1,840,925 85

Cash on  
hand \$ 38,772 24

Sales of crops, manufactured products,  
etc., \$1,075,575.14, includes sales for  
cash only, and does not include sales to  
the farms or other departments, for  
which a book charge only was made.

Accounts Charged Off.

In the period between 1900 and 1910  
the following sums represented by notes

have been charged off the books as loss. From the Huntsville books, something more than \$44,571.35; and from the Rusk books more than \$49,820.65. In addition to these notes the auditors direct attention to the facts that there were open accounts of various sums never collected; or to quote the auditors "if collected not accounted for." The books on May 1 of this year show accounts of \$165,270.50; and notes amounting to \$27,164.86. Of these sums, accounts aggregating \$60,953.70, and notes amounting to \$10,250.04, being a total of \$71,203.74, were on the books when the present management assumed control of the prison system in 1911, which would indicate the improbability that anything can be realized from them. In this connection, we would state that the audit of 1912 shows that out of \$276,270.45 in all probability \$118,700.97 may not be collected, the auditor declaring the accounts of doubtful value. Among the accounts classed as doubtful is included \$78,734.57 representing cane grown by the prison system and sold to the Imperial Sugar Company, for which suit is pending.

Attention is directed by the committee to the losses and the status of these accounts for the purpose of emphasizing the lack of proper business methods in the sale and collecting department of the prison system extending back as far as the special audits have been conducted into the records of the transactions of the system.

#### Farm Operation Losses.

We have examined at considerable length into the operation of the different prison system departments and direct attention to the result of the operation of the State farms and share and lease farms for the years 1911 and 1912. The losses sustained by the farms are as follows: In all instances a convict labor charge of 50 cents per day was allowed in addition to maintenance supplies.

The operations for 1911 show:

Harlem State farm, loss from operation .....	\$ 55,643 67
Harlem sugar house, loss from operation .....	22,202 37
Imperial State farm, loss from operation .....	54,370 79
Ramsey State farm, loss from operation .....	40,189 22
Clemens State farm, loss from operation .....	37,229 04
Clemens sugar house, net earnings .....	33,586 67

Goree State farm, loss from operation .....	7,063 30
Wynne State farm, loss from operation .....	11,053 17
Bassett Blakely share farm, loss from operation .....	9,451 59
H. L. Trammell share farm, loss from operation .....	9,300 10
Lakeside Sugar Co. share farm, loss from operation .....	20,407 76
E. A. Eastman share farm, loss from operation .....	7,675 74
Imperial Sugar Co. share farm, loss from operation .....	29,645 36
Burleson & Johns share farm, loss from operation .....	11,824 80
Elkins & Gibson share farm, loss from operation .....	10,818 35
H. S. Drew & Bro. share farm, loss from operation .....	20,813 70
Della Eastham share farm, loss from operation .....	22,252 19
N. A. Shaw share farm, loss from operation .....	12,268 20
Total loss from farm operations .....	\$382,209 37

Net profit Clemens sugar house .....\$ 33,586 67

The operations of the State and lease farms for the year 1912 show the following results:

Harlem State farm, loss from operation .....	\$ 12,531 96
Harlem sugar mill, loss from operation .....	19,308 38
Imperial State farm, loss from operation .....	100,274 54
Ramsey State farm, loss from operation .....	66,213 40
Clemens State farm, loss from operation .....	78,787 76
Clemens sugar house, loss from operation .....	11,118 51
Goree State farm, loss from operation .....	5,188 76
Wynne State farm, loss from operation .....	9,794 25
Bassett Blakely leased farm, loss from operation .....	15,648 29
Burleson & Johns leased farm, loss from operation .....	35,166 01
N. A. Shaw share farm, loss from operation .....	25,233 37
Lakeside Sugar R. Co. share farm, loss from operation .....	54,821 91
H. L. Trammell share farm, loss from operation .....	12,937 26

Total losses for two years .....\$471,685 44

Net profit Clemens sugar house (for 1911) .....\$35,586 67

During the time covered by the foregoing statement of operations a considerable amount of work has been done on some of the State farms for which the property account of the prison system is entitled to credit. The charges for work of this character on the different farms are as follows:

Credit for clearing and ditching land on Clemens farm.	\$ 28,748 20
Credit for clearing and ditching land on Ramsey farm.	55,585 50
Credit, improvements Imperial farm .....	21,496 20
Credit, clearing land Harlem farm .....	27,674 60
	<hr/> \$133,504 50

From the foregoing statements it is observed that the expenditures in the operation of the farms exceeds receipts for the two years in the sum of \$820,326.37, and hence to this amount affects the indebtedness of the system; while the amount of \$133,504.50 represents the improvements and credit to be made to the property account.

There can be no doubt of the fact that the freeze of 1911 represented a serious loss, estimated anywhere from \$200,000 to \$300,000, though no reliable figures are obtainable, as sugar cane is a crop subject to considerable hazard. The loss due to the freeze, however, so far as it affects the present indebtedness of the system can only be measured by the amount it cost the system in cash, or obligations, just as a crop failure of any other character would be applicable. This is included in farm losses. It should be mentioned that even with the freeze the return from the cane crop of 1911 compares favorable with that of 1912, in which year there was a drought, the returns from the cane crop for the two years being as follows:

1911—

Cane from Clemens farm....	\$ 88,303 74
Cane from Imperial farm....	32,874 78
Cane from Ramsey farm....	25,495 20
Cane from Harlem farm....	32,602 90

Total receipts from the four State farms.....\$179,276 52

Of this amount the sum of \$78,734.57 is not yet paid and is involved in suit.

1912—

Cane from Clemens farm....	\$ 32,589 16
Cane from Harlem farm....	40,511 96

Cane from Ramsey farm....	11,790 81
Cane from Imperial farm....	26,589 34

Total of .....\$111,481 27

In this year there was an unusually light rainfall during the maturing season.

Altogether, these two years forceably remind us that sugar cane and the making of sugar is a very hazardous industry. It is to be regretted that the returns from these farms did not realize expectations entertained of the cane crop, but we cannot agree with the Prison Commission in the conclusion that the estimated value of the cane crop, before the freeze, accounts for \$250,000 or more of our present indebtedness, for the reason that the true charge is equal only to the amount expended and not recovered. As a matter of course, the indebtedness would have been much reduced had no freeze occurred, but the same could be said of our cotton crop of 1912 had there be no drought.

It may be said in this connection that while the three disastrous fires in the two penitentiaries caused a property loss estimated at \$286,931.75, the direct effect upon the present indebtedness of the system can only be measured by the actual cost of the partial restoration of the plants, which is estimated to date by Commissioner L. W. Tittle at \$60,000.

In addition to this actual cash payments for repairs to roofs and new machinery were made, amounting to \$26,100.

#### Per Capita of Maintenance.

Cost per capita, per diem and per month on the State, lease and share farms for the years 1911 and 1912. This includes maintenance, supplies and clothing only, plus 9 cents per diem per capita overhead system charges, and the 10 cents per diem required by law.

Note.—The average cost per capita per month for the entire system for the year 1911 was \$17.03, and for 1912, \$20.59, including overhead charges and per diem.

Harlem State Farm—	
Cost per diem convict	
M. S. and clothing..	\$0.5920
Cost per diem convict	
overhead expense system .....	.19

Per diem .....\$0.7820

Per month, maintenance, supplies and clothing with overhead charges .....	\$23 46
---	---------

Imperial State Farm—  
Cost per diem convict  
M. S. and clothing..\$0.2513  
Cost per diem convict  
overhead expense sys-  
tem ..... .19

Per diem .....\$0.7113  
Per month, main-  
tenance, supplies and  
clothing with over-  
head charges ..... 21 33

Ramsey State Farm—  
Cost per diem convict,  
M., S. and clothing..\$0.5159  
Cost per diem convict  
overhead expense sys-  
tem ..... .19

Per diem .....\$0.7059  
Per month, main-  
tenance, supplies and  
clothing with over-  
head charges ..... 21 17

Clemens State Farm—  
Cost per diem, M., S.  
and clothing .....\$0.6965  
Cost per diem overhead  
expense system ..... .19

Per diem .....\$0.8865  
Per month, main-  
tenance, supplies and  
clothing with over-  
head charges ..... 26 59

Burleson & John Share Farm—  
Cost per diem, M., S.  
and clothing .....\$0.3479  
Cost per diem, overhead  
expense system ..... .19

Per diem .....\$0.5379  
Per month, main-  
tenance, supplies and  
clothing with over-  
head charges ..... 17 13

T. W. House Contract Force—  
Cost per diem, M., S.  
and clothing .....\$0.3876  
Cost per diem, over-  
head expense system .19

Per diem .....\$0.5776  
Per month, main-  
tenance, supplies and  
clothing with over-  
head charges ..... 17 32

N. A. Shaw Share Farm—  
Cost per diem, M., S.  
and clothing .....\$0.4652  
Cost per diem, overhead  
expense system ..... .19

Per diem .....\$0.6552

Per month, main-  
tenance, supplies and  
clothing with over-  
head charges ..... 19.66

Lakeside Sugar Co.—  
Cost per diem convict  
M., S. and clothing..\$0.5151  
Cost per diem convict  
overhead expense sys-  
tem ..... .19

Per diem .....\$0.7051  
Per month, main-  
tenance, supplies and  
clothing with overhead  
charges ..... 21.15

Bassett Blakely Share Farm—  
Cost per diem convict  
M. S. and clothing...\$0.3324  
Cost per diem convict  
overhead expense sys-  
tem ..... .19

Per diem .....\$0.5224  
Per month, main-  
tenance, supplies and  
clothing with overhead  
charges ..... 15.67

H. L. Trammell Share Farm—  
Cost per diem convict  
M., S. and clothing..\$0.3929  
Cost per diem overhead  
expense system ..... .19

Per diem .....\$0.5829  
Per month, main-  
tenance, supplies and  
clothing with over-  
head charges ..... 17 48

Average per month,  
all farms ..... \$20 18

Note.—Overhead charge for general  
system, expense and per diem amounts  
to \$5.70 per month, and increases per  
capita cost to this extent.

1912.

Harlem State Farm—  
Cost per diem convict,  
M., S. and clothing..\$0.7333  
Cost per diem convict,  
overhead expense sys-  
tem ..... .19

Per diem .....\$0.9288  
Per month, main-  
tenance, supplies and  
clothing, including  
overhead charges ... \$27 864  
Imperial State Farm—  
Cost per diem convict  
M., S. and clothing..\$0.596

Cost per diem convict, overhead expense of system ..... .19

Per diem .....\$0.786

Per month, maintenance, supplies and clothing, including overhead charges ... 23 58

Ramsey State Farm—

Cost per diem convict, M., S. and clothing..\$0.68

Cost per diem convict, overhead expense system ..... .19

Per diem .....\$0.87

Per month, maintenance, supplies and clothing, plus overhead charges ..... 25 10

Clemens State Farm—

Cost per diem convict, M., S. and clothing..\$0.604

Cost per diem convict, overhead charge system ..... .19

Per diem .....\$0.794

Per month, maintenance, supplies and clothing and overhead charges ..... 23 82

Note.—Average per capita cost of convicts per month, including maintenance, supplies, clothing and overhead charge 19 cents, \$24,0978.

1912.

Burleson & Johns Leased Farm—

Cost per diem convict M., S. and clothing..\$0.6348

Cost per diem convict, overhead expense system ..... .19

Per diem .....\$0.8248

Per month, maintenance, supplies and clothing, with overhead charges included ..... 27 745

T. W. House Leased Farm—

Cost per diem convict, M. S. and clothing..\$0.723

Cost per diem convict, overhead charges system ..... .19

Per diem .....\$0.913

Per month, maintenance, supplies and clothing, including overhead charges ... 27 09

N. A. Shaw Farm—

Cost per diem convict, maintenance, supplies and clothing .....\$0.492

Cost per diem convict, overhead charge of system ..... .19

Per diem .....\$0.682

Per month, maintenance, supplies and clothing, including overhead charges ... 20 46

Lakeside Sugar R. Co. Share Farm—

Cost per diem convict, M., S. and clothing..\$0.547

Cost per diem convict, overhead charges system ..... .19

Per diem .....\$0.737

Per month, maintenance, supplies and clothing and overhead charges ..... 22 11

Bassett Blakely Lease Farm—

Cost per diem convict, M., S. and clothing..\$0.64

Cost per diem convict, overhead charges system ..... .19

Per diem .....\$0.83

Per month, maintenance, supplies and clothing and overhead charges ..... 24 90

H. L. Trammell—

Cost per diem per convict, M., S. and clothing .....\$0.487

Cost per diem per convict, overhead charges system ..... .19

Per diem .....\$0.677

Per month, maintenance, supplies and clothing and overhead charges ..... 24 09

#### Acreage and Distribution of Men.

These tables are taken from statements submitted for the years 1911 and 1912. The variation in acreage cultivated per capita can be accounted for only by the surplus men carried on the farms or by reason of considerable clearing of land and labor performed other than the actual operation of the farms.

1911.

Acreage—State farms, 18,057; share farms, 25,363; contract farms, 18,680. Total, 62,140.

Number Men—State farms, 1000; share farms, 1059; contract farms, 605. Total, 2664.

Acreage per Man—State farms, 18; share farms, 24; contract farms, 30.88. General average, 24 acres per man, 1911.

1912.

Acreage—State, 21,218; leased, 7705; share, 6810; contract, 11,170. Total, 36,993.

Number Men—State, 1951; leased, 461; share, 416; contract, 43. Total, 2871.

Acreage per Man—State, 10.87; leased, 16.88; share, 16.37; contract, 41.

General average, 12.9 acres per man, 1912.

State Farms—1912.

Acreage—Harlem, 4570; Clemens, 4270; Imperial, 5233; Ramsey, 2773; Wynne, 355; Goree, 550.

Number Men—Harlem, 207; Clemens, 215; Imperial, 282; Ramsey, 167; Wynne, 52; Goree, 52.

Acreage per Man—Harlem, 22; Clemens, 19 6-7; Imperial, 18 5-9; Ramsey, 16 5-8; Wynne, 6 4-5; Goree, 10 3-5.

State Farms—1912.

Acreage—Harlem, 5093; Clemens, 4786; Imperial, 6037; Ramsey, 4045; Wynne, 291; Goree, 491.

Number Men—Harlem, 385; Clemens, 432; Imperial, 513; Ramsey, 421; Wynne, 88; Goree, 72.

Acreage per Man—Harlem, 13; Clemens, 11; Imperial, 11 3-5; Ramsey, 9 1-2; Wynne, 3 1-2; Goree, 6 5-7.

Report of A. M. Barton, September 1, 1910, on State farms only; no others available.

Acreage—Clemens, 4000; Ramsey, 3000; Imperial, 4500; Harlem, 3000.

Number Men—Clemens, 344; Ramsey, 181; Imperial, 334; Harlem, 161.

Acreage per Man—Clemens, 11 6-10; Ramsey, 16; Imperial, 13 1-2; Harlem, 18 6-10, and 1000 acres leased.

These tables of acreage cultivated in different years, in the judgment of the committee, present two facts demanding consideration. The first is the lamentable absence of any definite plan in the farm operations of the system, intended to utilize labor economically and efficiently; and the second is that, according to the testimony secured at the hearings, the control over the labor, under existing conditions, is so lax and inefficient that it will be found extremely difficult to maintain a definite policy of operations approaching the real labor efficiency of the number of convicts em-

ployed, both of which conditions must be improved before anything approaching satisfactory results may be expected.

Increased Expenses and Losses Under the New Law.

The fact that more or less of the increase in the cost of conducting the prison system has been charged directly and indirectly to the mandatory provisions of the new law, makes it essential that we review the provisions of the statutes bearing directly upon the financial operations of the system, and the labor efficiency of convicts.

The largest single increase in expenditures required by the new law is that providing for the payment of 10 cents per day to convicts. This has aggregated from January 20, 1911, to December 31, 1912, \$233,000.73. This sum includes certain amounts allowed to lifetime men under a decision of the Attorney General rendered since December 31, 1912.

The provision of the law limiting the number of hours convicts must work and making allowance for overtime to cooks and all other convicts, no matter what class of service they perform, has been responsible for an increase from December 31, 1912, in the cost of the system of \$50,777.10.

The increase in the expense of the system through the change in management, as provided in Section 4 of the law, which refers to the Prison Commissioners, has been \$7520 to the end of the year 1912.

The creation of the offices of auditor, \$2400; parole agent, \$1500, and prison dentist, \$1800, has resulted in an increase expense to December 31, 1912, of \$11,400.

The increased expenses caused by provision for teachers and chaplains and increase of salaries of guards, stewards, and others, has amounted to approximately \$47,600.

The increase of cost of handling new convicts, the new law requiring all convicts to be sent direct to Huntsville, and later distributed, estimated to represent an added expense of \$5.00 for each convict, has been responsible for increased expenditures amounting to \$12,500.

The provision requiring segregation of the women convicts is declared responsible for the increase in the expense of the system of about \$2000, represented in additional pay of guards, physicians and chaplain. The law provides that convicts shall be furnished transporta-



tion to any point in the State that they may elect. The records show that in 1910 there were 1049 men discharged, at an average per capita cost of \$16.49; while in 1911 there were 1129 men discharged at a per capita cost of \$23.55, or an increase under the new law of \$7.06 each man released. For the two years, 1911-12, this will represent an increase of approximately \$15,000.

This indicates a total mandatory increase in the penitentiary expenditures required by the new law amounting in the two years, 1911-12, to \$379,791.73.

When the new law was passed in August, 1910, the sentiment of the people having found expression in a demand for the abolition of the lease contract system, the prison officials immediately began the elimination of the system, and the records show that no release has been renewed or a new one entered into since the passage of the present law. In anticipation of providing for the employment of men who would be released by expirations of leases, the prison authorities in 1910 made contracts for a number of share farms; such contracts being for the farms of Imperial Sugar Co.; Elkins & Gibson, Burleson & Johns, Bassett Blakely, Della Eastham, B. A. Eastham, Dew Bros., Lakeside Sugar Co., H. L. Trammell, and N. A. Shaw, a total of 24,533 acres, to run one and two years.

These share farm contracts proved unprofitable in 1911; the losses as determined by the special audit made by certified public accountant, F. J. Huey, being \$154,457.81.

At the expiration of these share farm contracts in 1911, the Prison Commission discontinued the share farm policy and adopted the policy of leasing from private parties for money rent, with options to give part of the crop, for such additional lands as were needed to employ the men available for farm work. The farms so leased in 1912 included 10,300 acres, on contracts for one to five years.

According to the audit of the prison system accounts by Accountant Huey for the year 1912 the losses on these lease farms were shown to have been \$75,475.24.

Acreage considered, the losses under the lease farm policy were approximately the same as the losses under the share farm plan.

The prison system was unfortunate in 1911 in experiencing two fires—a fire at Huntsville on December 4, 1911, causing injury to buildings of \$133,375; to

machinery of \$62,550.75, and to products of \$61,006; a total loss to the property account at Huntsville of \$256,931.75; also a fire at Rusk in 1911, entailing a loss to buildings of \$25,000, and of material \$5000; a total loss to the property account of the system of \$286,931.75.

In 1911, by all of the testimony available to the committee, there must have been the largest cane crop South Texas has had for many years. The prison system had a considerable crop that year—12,370 acres—evidenced by the fact that, notwithstanding the heavy losses from freeze, the receipts from the crop for 1911 were greater by \$48,004.84 than for 1912, when the system gathered and marketed all of the yield.

When the present law was passed in August, 1910, there were 1046 men under lease contract. When the new law became effective January 20, 1911, the number under lease was 883; of this number 711 were being worked by the contractors on farms and 172 on railroads. These leases were with the following persons: John D. Rogers, contract to expire January 31, 1912, but canceled November 15, 1912, because the contractor represented he did not need the men longer and desired to be released. W. T. Eldridge, contract expiring December 31, 1911. A. P. Borden, contract expiring December 31, 1911. Dew Brothers, contract expiring December 31, 1911. Dyer and Bertrand, contract expiring December 31, 1911. T. B. Henderson, contract expiring December 31, 1911, but canceled June 26, 1911, upon contractor's representation that the labor was unsatisfactory and his request to be released. W. L. Steele, contract expiring December 31, 1911, but canceled November 20, 1911, the contractor representing that he no longer desired the men. C. G. Wood, contract expiring December 31, 1911. Adams Brothers, contract expiring December 31, 1911. G. C. & S. F. Ry. Co., contract expiring December 31, 1911. Sugarland Ry., contract expiring December 31, 1911. T. W. House, contract expiring December 31, 1911.

The amount collected by the present Prison Commission from leased labor contracts expiring since January 20, 1912, was for contracts expiring in 1911, \$196,291.99; and for 1912, \$14,094.33; a total of \$210,386.52.

If it be desired to make further comparison of the revenues from lease labor contracts, the records show that for the years 1907-8 the State received \$890,-

595.36. For 1909-10 the receipts from leased labor contracts amounted to \$805,117.30. Or, the difference in receipts from leased contracts between 1909-10, and 1911-12, of \$594,730.78. Or a difference for the preceding two years of \$680,208.84.

Inasmuch as the loss revenue from the lease of convicts has been cited as an important factor contributing to the present indebtedness of the prison system, the committee, after much thought, has concluded that it is justified in discussing briefly the collateral facts of the abolition of the lease policy. When the present law was before the Legislature, and even after the provision for continuing the lease system until January 1, 1914, was incorporated, the bill, as it left the Senate, carried an appropriation of \$500,000 for the purpose of supplanting the loss of revenue which it was supposed would necessarily follow up a statutory declaration in opposition to the lease system, and from the widespread feeling of antagonism to the lease system throughout the State. This proposed appropriation was reduced in the House of Representatives to \$200,000, and later, according to best information available, eliminated entirely to secure Executive approval for the law. This was during the Special Session of the Thirty-first Legislature, convened August, 1910.

When the present prison authorities assumed control of the penitentiary system, they found 883 convicts under lease, for which the State was receiving pay at the rate of \$29 and \$31 per month. Following the policy begun by the authorities in 1910, after the passage of the law, the present Prison Commission took official action abolishing the convict lease plan on May 20, 1911, as disclosed in the minutes of the official proceedings of the Commission. In the absence of an appropriation of sufficient amount to carry the penitentiary over the period of transition in policy from the lease to the ownership of farms, we are compelled to believe the intent of the Legislature in leaving the provision for an extension of the lease plan to 1914 was to provide revenues which could not be secured by appropriations, and that, although the will of the people seemed to demand abolition of the policy, financial expediency dictated its sufferance for three years more.

The committee conceives these to be the facts; and in dismissing this feature of its investigation does not feel called upon to express an opinion as to whether

or not, under all the circumstances, of facing a known loss of revenue of considerable proportion on the one hand, and the certain knowledge that public opinion, crystallized from the agitation in 1909-11, favoring the earliest possible abolition of the convict leases, the lease policy should have been continued for the three years indicated by the law. Two observations, however, the committee feels pertinent: The first of which is that when the State is moved to the extent of declaring for a change of policy in the name of humanitarianism, it should display the practical humanitarianism of providing the reasonable cost of the inauguration of such policy; and the second observation is that as long as the purely business management of State institutions is subjected to the exigencies of popular expression, business considerations will be eclipsed by subservience to popular acclaim.

It has been charged that the provision of the law limiting the hours of labor, together with the suspension of the long-used method of punishment in the penitentiary—the strap—has resulted in decreasing the productive efficiency of convict labor in a very large degree. The inquiries of the committee concerning this feature of the law were extended, and though the testimony was practically unanimous in declaring that the effect of the law has been to increase the cost to the penitentiary system of its convict labor there was considerable diversity of opinion as to the extent of such diminution in the value of labor in the prison system to the various enterprises and activities conducted by the system. The committee has given much thought to this phase of the law, and to the representations made regarding its effect upon prison system operations, and are convinced that the law has operated to measurably decrease the efficiency of the men engaged in productive labor in the prison system, but to what extent the limitations on the hours of labor and its unresponsiveness to the special requirements of the different activities of the system is responsible for the increase in the cost of the maintenance and operating of the prison system, the committee has no reliable means of determining.

#### The Penitentiary Is Part of State Government.

Our penitentiary system may be compared to a great diversified business industry involving the investment of over

four millions of dollars. In this respect it is a plain business proposition calling for strictly business administration regardless of all other considerations. Every citizen is a stockholder and has an interest, not only in its intelligent management, but in addition thereto, in the proper care and training of the four thousand human souls involved. The best business brain available should be secured and placed in charge regardless of political affiliation or place of residence. The hope of our penitentiary system lies in the selection of competent, non-partisan management absolutely divorced from every consideration other than modern business principles to be applied in co-operation with humane control of our convict wards. As a State, we are confronted with the problem of utilizing the labor of these four thousand convicts so as to make it self-sustaining, if it can be done, without the sacrifice of humanitarian considerations. If this cannot be done, then the problem resolves itself into one of reducing the loss to a minimum. If the exigencies of circumstances demand it, we can rightfully sacrifice dollars for humanity's sake, but not for private or public reward or gain. One of the principal causes, and probably the main cause, leading up to present conditions, can be charged to the idea, almost universal in penitentiary circles, that the penal system is a law unto itself. And, indeed, for many years it has been treated as an outlying province, responsible to no one but itself. Prior to the enactment of the present statute, its revenues had not been required to be paid into the State Treasury, as were the revenues of all other departments, and the idea had become fixed that such revenues belong to the system for the system to dispose of at will and without the interference of legislative authority.

Such doctrine is both dangerous and demoralizing. No institution owned by the State should be permitted, even for a day, to pass from under the control and direction of the State. Such a policy is unwise both toward the State and toward the institution. Money comes too easily and is expended too recklessly. Relieved of legislative limitation and review, the only question is, how much money will be available, and even this is anticipated. Industries are inaugurated, and expensive buildings erected to suit the ideas of the management in authority, which may be entirely changed by the succeeding one.

Elements Entering Into the Present  
Financial Condition of the System  
as of Date January 20, 1911, to  
January 1, 1913.

Loss from operation—farms .....	\$ 820,326 37
Advanced account operation—State Railroad....	49,670 42
Expenditures—partial restoration account fires...	86,100 00
Per diem to convicts required by law, paid.....	90,162 02
Unpaid account for 1911, cane .....	78,734 57
Per diem to convicts required by law, unpaid...	142,838 71
Construction of houses and furnishing same, for officers and employes, approximately .....	35,000 00
Increase in salaries, authorized by law.....	7,520 00
Increase in salaries, authorized by law, 1911, auditor, dentist and parole agent .....	11,400 00
Interest on bills payable and taxes, unpaid.....	36,455 04
Overtime to December 31, 1912 .....	50,777 10
Increase expense account, chaplain, teachers, and increased salary of stewards and guards, for two years .....	47,600 00
Increase transportation, cost due to concentrating all convicts at Huntsville, estimated \$5 per convict .....	12,500 00
Segregation of women convicts; additional guards' salary, matron, physician and chaplain.....	2,000 00
Increased cost of transportation, account released convicts .....	15,000 00
Total .....	\$1,486,084 23

The records of the system show that improvements have been made upon the several farms and at Huntsville and Rusk during the period between January 20, 1911, and May 1, 1913, representing an outlay of \$589,871.48. While accounting for expenditure to this amount, this sum can not be considered in determining indebtedness resulting from the impositions of the new law, but would rather be considered as incidental to the change of policy from the convict lease and share system to direct operations of farms.

The committee has no reason to question the amounts indicated having been

expended for the purpose of improvement, but it is apparent that the system of accounting and checking upon the use of materials purchased for improvement purposes renders it extremely difficult, if not impossible, to determine the value of such improvements by the cost of materials. Portions of materials ordered for one farm or purpose are often moved to other farms and used for other purposes, with no system for showing these facts. All expenditures for improvements are merely charged to the particular account but not charged to the different buildings for which the material is bought.

The testimony, in reply to interrogations intended to disclose the amount of increased cost due to the fact that the prison system has been operating on credit, varies. All agree, however, that a considerable portion of the present indebtedness is due to this fact. Considering the magnitude of the operations of the system this amount of increased cost could, covering a period of two years, easily approximate \$100,000. It is also worthy of comment that the loss of revenue, resulting from the abrogation of the policy of leasing convicts, comparing the receipts from this source for the years 1911 and 1912, with those for the years 1909 and 1910, amounts to \$584,740.78. There can be no doubt that these items, which items are factors in creation of present conditions.

#### Factors in Increased Cost.

The committee has endeavored to resolve all influence, contributing in any measure to the cost of conducting the prison system under the new law into definite financial terms, assigning to each provision of the law, each policy, and each act of management the degree of responsibility that appears just. We have reviewed the effect of mandatory provisions of the law where the statutes express the increase in terms, as the per diem for convicts, for example, and have commented on other conditions universally conceded as exerting an influence but which are impossible of exact determination, such as the restrictions of hours of labor, and difference in physical ability of the convict. There remains to be considered the degree in which the policies adopted by the prison management have been responsible for increasing the cost of conducting the system.

The bill creating the Commission was passed amid a contest of partisan influences for its control, and became a law under conditions recognizing a standard

of public service prevailing throughout the whole of the past history of the penitentiary, that each administration held the right, by virtue of success, to determine new policies in the conduct of the institution, and to place in charge of the execution of such policies only those who could be expected to support and execute them.

Creating a Commission of divided authority, a provision in itself inevitably productive of differences in judgment, causing expensive delays in business administration; handicapped by the unbroken precedence recognizing and demanding substitution not only of methods of management, but of men; and further handicapped by a condition of finances compelling them to seek credit from whatever source it might be obtained, and for which condition the Commission could only be considered partially responsible, the terms of the law and the attendant circumstances have served to contribute to, rather than prevent, deeds of omission and commission each adding in a greater or lesser degree toward the creation of present conditions.

That the acts of the Commission might command popular approval would appear to have been the controlling cause for the order abolishing the lease system in 1911, rather than at the close of 1913, the time limit fixed by law, despite the financial needs of the penitentiary.

Local influences, long recognized as a potential factor in prison management, have been permitted, if not directly encouraged to prevail to an undue extent, a notable instance of which is found in an order of the Commission that the Rusk penitentiary should be built up and given similar consideration to Huntsville, and that apparently without reference to the best interests or needs of the penitentiary system.

Reduction in the number of employes should have been made, illustrating which, although the number of trustees has been largely increased, there has been no decrease in the number of guards employed. Also, there should be a reduction in the number of convicts assigned to wait on system employes and convict forces in and about the various departments of the system, and these surplus men should have been employed in productive labor. In various instances better men might have been employed, and the services of others not in harmony with the general spirit of the present law should have been dispensed with, which would have operated to the finan-

cial advantage and the better discipline of the system.

While the farms have been equipped with mules of good quality, animals representing an investment of one-third less than the amount actually expended, would be equally, if not more, serviceable to prison system work. Most of these mules appear to have been bought on credit and the prices of \$225 to \$275 reflect an expenditure far above reasonable requirements, as well as those conditions which usually prevail in credit transactions. On this single item of purchase of mules, it is the judgment of the committee that approximately \$40,000 might have been saved to the prison system.

The building and remodeling of houses for employes both at Huntsville and Rusk, some of which were not required by the statutes, and the furnishing of such residences appear to have been more liberal than a due regard for the financial condition of the system would justify; approximately \$35,000 having been expended on residences and furnishings at Huntsville in 1911. Residences were furnished a number of employes without authority of the law, rent free, until about January 1, 1913, and the rents now collected are not commensurate with the cost of such buildings.

In view of its location, the limited acreage of cane land, and the known unfavorable conditions surrounding the making of sugar, the expenditures on the Clemens sugar mill amounting in the two years, 1911-12, to \$75,000, can only be characterized as an inexcusable error of judgment and an unjustifiable expenditure of public funds. Lack of proper attention to important details of management has been responsible for the failure of the Commission to practice many economies, one illustration of which is found in the delay in constructing a cotton gin on the Ramsey farm in 1911, or provisions for moving the crop to a gin, with a consequent loss estimated to be \$18,000, as shown by the testimony, to which reference is made; and another in the continued operation of an expensive power plant at Rusk, after the last fire, to run a box factory and furnish light for the city of Rusk, both at a material loss to the prison system approximating \$150 a month.

The testimony of the manager of the Rusk Box Factory, to which reference is here made, shows the entire output of the factory is being marketed in Cuba at a price 15 to 20 per cent below that secured by other manufacturers from the Texas trade. This action was

taken because of the protest made by a few box makers who objected to prison competition. Such a policy in the judgment of the committee is not only without justification from any point of view, but experience in the management of prison factories should serve to indicate the certainty that this box factory is being conducted at a continuous loss for this reason. Financial independence can not be expected from any penitentiary enterprise conducted in accordance with such a policy.

Such errors of management contributing to the expense of operation of the prison system, to which attention is hereby directed, cover practically the whole range of activities of the system and the aggregate of such losses and unjustifiable expenditures enters in a material degree into the present financial conditions.

Attention is directed to the extraordinary circumstances in connection with the lease and operation of the fourteen hundred acres known as the Ransome tract, situated adjoining the Harlem State farm. This tract is practically all in cultivation and under lease to the State for a period of three years, with privileges of extension for an additional five years, on terms of one-fourth of the crop. Upon this leased land the Prison Commission has expended between eighteen and twenty thousand dollars, in permanent improvements. The State holds an option to purchase this land at a price of fifty dollars per acre, said option having been provided for in the contract of lease. No doubt the improvements, including a prison building, repairs to residences, ditching, road building, etc., were made based upon expectation to purchase. The testimony of the farm commissioners is to the effect that these improvements were made upon an agreement that the owner would pay one-fourth the cost of same, and the prison system three-fourths, or, upon the termination of the lease, and in the event the State did not purchase the land, the owner would pay for the improvements at 50 per cent of cost.

An examination of the contract of lease, and the correspondence between the Prison Commissioners and the owner of this property fails to disclose any agreement between the contracting parties whereby the State is protected for any reimbursement whatever for these improvements should the Prison Commission fail to purchase under the terms of the option.

However, this committee emphatically

disapproves of the expenditures of the State's money upon private property and insists that permanent improvements be confined to lands to which the State has title. Furthermore, we emphatically urge that in all future transactions involving the purchase or lease of lands that the State deal with the owner direct.

The Eighteenth Legislature (Section 4, Chapter 114), declared it to be "the duty of the Penitentiary Board to confine all convicts within the walls of the penitentiary as soon as suitable prisons can be provided for their confinement and employment in such manner that they will be self-supporting;" and further, "that the Penitentiary Board may at any time, if they deem it advisable, purchase a penitentiary farm or farms upon which all convicts, not self-supporting, may be worked by the State."

Since this declaration of the Legislature, there has been expended by the State under share farm and lease contracts, sufficient money and labor if judiciously directed, to have secured for the State in the days when land was cheap, ample property for the system and to have improved such properties with all necessary substantial buildings. Yet after all this time the State is continuing the policy of paying large sums of money to private parties in rents, while using the prison labor in enhancing the value of such privately owned lands.

Note.—This committee has received, on July 19, after the formulation of its report, a report made by Auditor John M. Moore to Your Excellency, and transmitted by you to the committee, giving the findings of Auditor Moore in his investigation concerning the transactions for the lease, with option to purchase, of the R. F. Ransome tract of land; but at this late date the committee is unable to enter into any investigation of the facts and can only embody the report in the records and direct attention thereto.

#### Inventory.

The audit of F. J. Huey, January 20, 1911, presents the inventory as also an appraisal of the penitentiary properties at the time the present Prison Commission assumed control of the system, the inventory and appraisal being an agreed one between the retiring board and the Prison Commission. This inventory indicates a valuation of prison properties amounting to \$3,445,000.32, to which must be added the operating and inventory of \$395,662.66, or a total of \$3,840,662.98.

It was not contemplated that the committee would undertake to inventory and appraise the prison system properties, nevertheless, we have visited all of the properties of the system with the exception of certain small tracts of land in Cherokee county, and find the system to be possessed of the following property. The valuations of the different items contained herein are book values of December 31, 1912, and may be found in the special audit of the prison system of that date.

Book value Dec. 31, 1912.

Buildings at Huntsville, including furniture, power plant and laundry.....	\$ 389,970 19
Real estate, Huntsville, including properties on which main buildings are erected and 100 acres near town .....	37,400 00
Seven residences at Huntsville .....	45,262 25
Live stock, Huntsville...	4,264 10
Blacksmith shop and wagon factory machinery and equipment .....	58,031 05
Shoe shop machinery and equipment .....	3,130 00
Tailor shop machinery and equipment .....	2,026 83
Cabinet shop machinery and equipment .....	3,569 38
Rusk penitentiary property (this includes 4200 acres land in Cherokee county) .....	493,870 85
Rusk penitentiary box factory, installed 1912.....	30,567 99
Rusk penitentiary live stock .....	5,371 80
Clemens farm property, 8212 acres (this inventory includes Clemens sugar mill, gin and sawmill, four sets camp buildings, 7½ miles railway from sugar mill to Brazoria, and about 8 miles standard gauge tram railroad through the farm) .....	771,267 52
Clemens farm live stock...	41,070 20
Harlem farm property, 3740 acres (this includes Harlem sugar and syrup mill, two camps, and includes the camp on the Ransome leased farm adjoining; a new dairy building, 3 miles standard gauge railway connecting sugar mill with Southern Pacific Rail-	

way, and 15 miles narrow gauge tram railway through the farm).....	508,584 42
Harlem farm live stock...	46,108 73
Imperial farm property 5235 acres (this includes three complete sets camp buildings) .....	316,572 30
Imperial farm live stock..	46,515 85
Ramsey farm property, 7762 acres (this includes four complete camp buildings, sawmill and gin) .....	437,565 08
Ramsey farm live stock..	44,326 84
Wynne farm property, 2000 acres (this includes besides complete main camp buildings, hospital building for consumptives and building for the incurables) .....	28,678 93
Wynne farm live stock....	2,137 15
Goree farm property, 1000 acres (this includes one set camp buildings with separate house for white women convicts) .....	22,255 80
Goree farm live stock.....	2,018 34
Texas State Railroad.....	527,382 64

\$3,876,161 49

To this is to be added the operating and equipment inventory on December 31, 1912, of.....	481,617 18
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\$4,357,778 67

This shows a difference in the inventory of 1911 and the book values of January 1, 1913, of.....	\$ 517,115 69
The losses by fire necessarily reduced the property values in the sum of the loss actually sustained; the loss has been estimated to be.....	\$ 286,802 95

Values have been added to the acreage in the different farms, presumably based on the amounts invested in improvements on the land. Taking the Ramsey farm as an illustration, this farm was purchased in 1907 at a price of \$13.75 and appraised in the audit of January 20, 1911, at \$36.06. Distributing among the different farms the total of the investments claimed to have been made in clearing land and ditching, the actual sums that may be added to the value of the acreage on each farm would be as follows: Clemens farm, \$4.02 per acre; Harlem farm, \$9.05; Imperial farm, \$5.97, and Ramsey farm, \$7.73.

#### State Railroads.

As the history of State ownership of railroads has been identified with the penitentiary system in the past, the committee deems it proper to review the record of the construction and operation of these properties.

In the years from 1894 to 1896, 4.73 miles of railroad were built from the Rusk penitentiary to lands owned by the State lying between Rusk and Palestine. Later, additional trackage was added until by 1907 seven additional miles of road had been built. This road was constructed with convict labor and is estimated to have cost approximately \$43,431.20, the labor being charged at 50 cents per day. The loss from operations is not ascertainable, though it is shown by the records that expenditures from 1907 to 1908 exceeded receipts in the sum of \$11,281.75. During the years 1907, 1908 and 1909 the line was extended into Palestine, making a line 31.5 miles long, the total cost of which aggregated \$530,382.64. Since the completion of the road to Palestine the loss from operations would approximate \$45,000. There is no means of determining to any degree of certainty the cost of repairs on the road from the time the first mileage was constructed; but it is estimated that the sum of \$250,000 will be required to put the track in good condition and to construct substantial bridges. The testimony adduced in the hearing of the committee indicates that the road is now being operated at an average loss of \$800 per month. The valuation placed upon the property by the Railroad Commission is \$577,899.13.

The committee further instituted inquiries into the possible development of traffic along the route of the road and must say that there seems little encouragement for expecting a material increase in the volume of business that could be developed, certainly within a very long time. The Thirty-first Legislature authorized the sale of the road at a price not less than the valuation placed upon the property by the Railroad Commission, but there has been no time when there seemed the remotest prospect of making a sale at these figures. Inasmuch as the Regular Session of the Thirty-third Legislature removed the management of the Rusk Railroad from under the control of the Prison Commission, the committee is confining its statements concerning the property to the amount it has cost the State while under penitentiary control; fur-

nishing one more illustration of the profligate expenditure of public funds on experimental propositions made without regard to business or financial consideration.

#### The Ramsey Railway.

When the prison management bought the Ramsey farm in Brazoria county, a condition of the purchase was that the parties owning the land were to build seven miles of standard gauge railroad from the Ramsey farm to Archer, a station on the International & Great Northern Railroad; or, failing to do this within a specified time, to forfeit the sum of \$15,000 to the prison system. The \$15,000 was forfeited, and the State built the seven miles of railroad at a cost estimated by Judge W. H. Gill, Chairman of the Prison Board, during the year in which the road was constructed, of \$48,000, using convict labor, which did not include the cost of such labor, or a total cost to the system approximating \$72,000. This road was sold September 4, 1909, including the right of way, which did not enter into the cost estimated by Judge Gill, at a price of \$32,500. A valuation of this property placed upon it by the engineer of the Railroad Commission indicates its probable value at the time of sale to have been \$76,294.25.

This road was built for the purpose of moving the cane crop from the Ramsey State farm to the sugar mill on the Clemens farm by a reasonably direct route. Under the terms of sale, the purchasers were allowed to discontinue the operation of the railroad upon the completion of a northern railway connection with the Ramsey farm, and when such connection was completed the operation of the line from Ramsey southward to Anchor was discontinued, thus again making it unprofitable, and practically impossible, to grind the Ramsey farm cane at the Clemens mill.

There can be no doubt that one of the moving considerations for the purchase of the Ramsey farm by the State at the price specified in the contract was the agreement of the then owners of the farm to construct, or have constructed, a standard gauge railway from Ramsey to Anchor. The stipulations in the said contract of sale relieving the vendors from the obligation of building this railroad for the nominal sum of \$15,000 was insufficient to protect the State in its rightful expectation, of having the road constructed, as results proved, the State being compelled to build the road.

The stipulation in this contract of sale providing for the release of the vendors from the obligation to construct said railway upon forfeiture to the State of the sum of \$15,000, and of which the vendors availed themselves, should not have been agreed to by those whose duty it was to protect the State. As might have been foreseen, the forfeiture of this sum relieved the vendors, while imposing upon the State the burden of the cost of construction of said road, amounting to approximately \$72,000. As above stated, this railroad was sold for \$32,500 shortly after its construction, involving a loss of \$39,500 in addition to defeating the very purpose of its construction. The testimony of Mr. Bassett Blakely, to which reference is made, and the recorded instrument, show that possession of this property was secured by the State's vendor in 1906 at \$5.00 per acre and sold to the State in 1908 at \$13.75 per acre.

This transaction illustrates the long continued neglect manifest throughout the whole history of the prison system of the agents of the State in properly safeguarding the permanent interests of the system, and indicates with convincing force the lack of any stable managerial policy in the conduct of penitentiary affairs.

The experience of the State in the construction and operation of railroads presents a continuous record of financial disaster.

#### General Policy—Recommendations.

The committee views the establishment of penitentiaries as an act of organized society to protect its members. Every act in connection with the control of the persons sentenced to confinement in the penitentiary is dictated and justified only by the necessity of society protecting the integrity of its institutions and social and moral standards. Restraint of liberty, without effort to work reformation of conduct and development of character, is the expedient of primitive people, and is not indicative of principles founded in an enlightened Christian civilization.

It follows, therefore, that those removed from the body of society for the common good and restrained of their liberty, become a charge upon society as a whole. The employment of these persons in productive labor is really incidental to the purpose to teach them the necessity for their own, as well as the common good, of upholding social



order. To occupy the minds and hands of men in useful work is practical humanitarianism and essential to secure the best results in the exercise of reformatory influences.

The Texas penitentiary, with its four thousand inmates, represents under its present organization, a fixed charge upon the public. It is not probable that if the prison system is administered upon the basis necessary to, and promising the best results for society, it will ever be financially dependent in all its branches or units. The task confronting the State is to establish conditions which will serve the well-being of society to the maximum, while reducing the burden of maintenance of the penitentiary to the minimum.

We believe the spirit of our criminal statutes to be that persons violating the rules of organized society should be restrained of their liberty: (1) to maintain the security of life and property; (2) to deter others from like wrongful conduct; and (3) to teach such willful disturbers of public order the error of their acts and thus lead the way to moral reformation. This is in accord with the expression contained in Article 2 of the Penal Code of Texas, which declares: "The object of punishment is to punish crime and reform the offender."

We believe the Criminal Statutes should be revised, to the end that a greater degree of uniformity shall result in convictions for similar offenses, it being our judgment that a prolific source of discontent among convicts is the absurd and often outrageous inequalities in sentences imposed for like infractions of the law. We would further urge such revision in the Criminal Statutes to the end that all persons guilty of offenses against the law, whose correction and reformation may be achieved by methods less drastic and humiliating should not be sentenced to confinement in the penitentiary. To that end we would earnestly recommend that youths under the age of twenty-one, mentally and morally capable of receiving proper educational training, should not be sentenced to the penitentiary, but committed to a reformatory; and that youths of the same age be segregated from older convicts.

We believe the State owes to the persons convicted of crime and sentenced to the penitentiary the humane treatment of wholesome food, comfortable clothing and shelter, healthful surroundings and moral instructions.

We believe the spirit and the letter of the law, as well as the just attitude of

the public towards those sentenced to prison, to be that the State has the right to demand that the labor of the convict shall be given honestly and willingly together with the exercise of such measure of intelligence as he may possess.

The State, as the representative of organized society, owes to society as a means of protecting its integrity, the further duty of employing all practicable and available methods for the moral reformation of those convicted of violations of the rules of established government; and in those cases in which there seems reasonable hope for good results, we believe the State will be performing a valuable service to society by providing means for teaching to its convicts such ordinary useful occupations as are likely to furnish employment to the men after their release from prison.

We believe the State should adopt a general fixed policy in the conduct of its prison system to such extent as may be feasible. If it be determined advisable to employ a certain class of convicts in manufacturing industries, those industries should be carefully selected and adequate provision made for carrying them out upon the most advantageous plans, and a business-like system of marketing the products established. It should be determined to what extent the State will engage in farming and the necessary provisions should be made for conducting such operations upon the most profitable lines.

The committee has given careful attention to both the manufacturing and the farming operations of the system in the past, and although the industrial enterprises heretofore undertaken have proven unsuccessful, and years of experimental work and considerable expense may be necessary to determine what class of manufactories are best suited to the requirements of the system as affording useful instruction and financial independence, the fact that indoor work affords better opportunities for the exercise of reformatory influences, has led us to the conclusion that the best results in the operation of the prison system will be secured from the adoption of a definite policy looking to the employment eventually of the greater part of the white convicts in manufacturing enterprises.

At this time there are approximately four thousand convicts, between 65 and 70 per cent of whom are negroes and Mexicans. The limited capacity of these races to acquire technical knowledge, and the extreme improbability that they

would, or could to any appreciable extent, make use of such knowledge after release as well as their general adaptability to farm work, indicate the advisability of the adoption of a policy that will provide for employing the negro and Mexican convicts on farms and in work connected with farm operations.

We would make a distinction in the manufacturing industries between those that may, for special reasons, be considered essential, without regard to the fact that a small loss may result from their operations, and those that may be carried on as a matter of policy. As a result of our investigation, we would recommend as essential manufacturing industries: A tailor shop; a shoe shop, also making harness for the system, and a blacksmith shop and wagon factory.

In the case of the tailor shop, the demand for clothing is so constant and varied as to quantities and kind, and labor that could scarcely be used to advantage otherwise, can be utilized in a tailor shop, that this factory is deemed a necessary one.

While it seems reasonably certain shoes can always be bought at lower prices than the prison system can make them, we believe it advisable to continue their manufacture for the convicts. The prison system might also undertake the manufacture of some grades of shoes required by the various State institutions, but the quantity should not be large as the equipment required to enable the system to make all the shoes used by the State institutions would be too great to justify its purchase, and there would seem to be small prospect of success in having the system enter upon the manufacture of these articles as a commercial enterprise.

The blacksmith shop and wagon factory is an essential adjunct to the prison farm, instructive to the men and capable of serving a useful purpose to the prison system.

Among the classes of industries that might be conducted as a matter of policy would be the manufacturing of furniture which has been carried on in different ways and with varying degrees of success in the prison system for many years. A furniture factory may be made to save the purchase of necessary furniture for the prison system, and there would seem to be no valid reason why the convicts cannot make much of the furniture required by the State institutions, colleges and schools; and if it is desired to increase the number of men occupied in indoor work the manufacture

of certain staple lines of furniture offers a reasonable assurance of providing a profitable undertaking.

In the factory reports submitted herewith the suggestions for increasing the output of various industries now carried on at Huntsville with comparatively small additional investments, and we have reason to believe from our inquiries that such extensions would lessen cost of production and increase the chances of profitable operation.

In every manufacturing enterprise undertaken by the prison management a thorough and uniform system of accounting, embracing cost of raw material, labor, supervision, general system expense, and overhead charges of every kind, must be installed and carefully maintained before it can be determined whether or not such enterprises are being operated at a profit. And we would further impress the fact that it is only by the inauguration of an intelligent business policy, continuously and uninterruptedly adhered to that any manufacturing industry can hope to sustain itself.

The labor entering into a manufactured article is often so essential a part of the finished product, demanding not only conscientious attention to detail, economy in use of materials, diligence in application of time, but also pride in the achievement of skillful handiwork, that we feel impelled to counsel extreme conservatism in the selection of factory undertakings, to the end that needless loss may be averted in this department of prison operation.

Nevertheless, the employment of convicts within the walls in various manufacturing enterprises offering better opportunities for reformation work, providing useful technical knowledge after release, and assuring greater intelligence and skill in workmanship, suggests the advisability of the employment, as an established policy, of as many convicts in industrial occupations as may be found practicable.

Before engaging in enterprises of like character with the iron industry, foundry and machine shops, furniture manufacturing, etc., certain to involve expenditure of large capital, it should be remembered that the State, even though it be in control of its convict labor, faces a problem entirely different from that confronting private capital. Such industries as a rule are very expensive to install. Furthermore they are expensive to operate, and dependent for success upon whether or not the men who labor have been trained along the lines of work

assigned them. Private enterprises have the privilege of selecting their men from the industrial world, while the State must employ the labor of such men as the criminal courts provide, and, of necessity, without any consideration whatever for special fitness or adaptability, for the work required. No wise business policy could favor the opening of the gates of a great industry requiring technical skill under the circumstances compelling the employment of such labor as may drift in, without being carefully selected. Such policy is doomed to failure in advance, as success would be impossible in competition with industries of like character employing skilled labor. Prisoners are like other men. They have to learn, and it is folly to expect expert labor from them before serving their apprenticeships. Again, when demand for products of private industries is limited, the number of employes and cost of operation may be reduced, while in a State penal system, the men must be retained regardless of limitations of market. The idea that convict labor is cheap labor will not stand the test of analysis, even under wise business direction, and the history of our prison system, from beginning to end, shows a lamentable disregard of business calculations and methods, the natural sequence of which could only be expressed in heavy loss of public revenue.

In this respect Texas is not unlike other States. It is true of the State, as of the Nation, that partisans are rewarded with positions of trust and responsibility oftentimes without due consideration for qualifications. It is hardly to be expected that men elected to responsible offices would retain in office, heads of departments, politically, or otherwise, unfriendly to them, and this obtains with equal force among appointees. It is a trait of human nature that should be guarded against and which is responsible for the introduction of the doctrine of the civil service, the very purpose and necessity for which is to safeguard the State from incompetent service resulting from appointments made for reasons other than those of merit.

In view of the fact that the State now owns 8,975 acres of land in Fort Bend county, and 15,974 acres in Brazoria county; that these lands are as fertile as may be found in Texas, and are reasonably near together; and that this section of the State is particularly well adapted to the cultivation of a variety of crops, the average rainfall being as heavy as in any part of the State, assur-

ing a reasonable annual yield; and that this portion of the State is universally conceded as most favorable to the best results in the employment of colored labor, we recommend that it be the policy of the prison system to work its negro and Mexican convicts on farms owned by the system, concentrating such farms to the extent found possible. The Wynne and the Goree farms near Huntsville, in Walker county, may be made to serve useful purposes as long as the headquarters of the penitentiary are maintained at Huntsville, as dairying, gardening and stock farms, materially reducing the cost of maintenance of the men confined within the walls. And, it may be that one or both of these farms can be utilized longer for certain classes of convicts who can not be employed to advantage in connection with the main department of the prison system. The Wynne farm is well equipped for the care of those convicts suffering from chronic and incurable ailments, the cripples and others unable to perform much useful labor.

We believe that unless the next few years witness a considerable increase in the number of colored convicts, the bringing into cultivation of new land at the Ramsey farm, the acquisition of lands so situated as to better concentrate the State's farming interests, together with general improvements in agricultural methods, the prison system might dispose of the Clemens farm, in pursuance of a policy of concentration of management. If it be decided to do this, however, it should be held until such time as practically all of the lands are cleared and made salable at higher prices. Then it could be placed on the market in small tracts to farmers on easy terms of payment, realizing for the prison system a handsome price.

Whether or not the suggestions of the committee regarding the complete separation of the races be approved, the committee would suggest the advisability of having one camp on one of the farms conveniently located to railroad facilities equipped to receive the negro and Mexican convicts, from which point they may be distributed to the different camps on the farms. And if the suggestions of the committee respecting the early concentration of farm holdings be followed all discharges should likewise be made from this camp. When a man is convicted who is to be employed in farm work he should be sent direct to this receiving camp for the farms of the prison system. The sums saved in unnecessary transportation of convicts would

in a very short time repay not only all cost of equipping the receiving bureau, would in the course of time materially aid in paying the cost of constructing a fireproof building at such receiving camp.

The committee feels strongly the importance of improvements in the farm methods of the prison system. It appears that too much consideration has been given to the acreage to be cultivated, and not enough attention to the possibility of the increase in acreage yield. Likewise, the judgment displayed in the character, division, rotation, care and disposition of crops is open to criticism. A single illustration of this may be seen in the planting of Irish potatoes, a crop very expensive to plant, requiring considerable care in cultivation, and the exercise of judgment in marketing. The efforts of the State prison system in the production of this crop have been decidedly unprofitable, due in part, apparently, to lack of proper methods of cultivation and judicious marketing. Under all the circumstances attending the cultivation and selling of prison farm products, the wise policy would be to confine the State's operations to such crops as are not perishable and have a steady demand at fairly uniform prices.

In the penitentiary management the cost of supervision and fixed overhead expenses is a problem of the gravest concern, and enters in an important degree into every detail of the operations of the system. Every activity of the system, therefore, must institute and carefully maintain such economies as are practicable, and we are convinced that there are many such ways of saving in connection with the prison farms. These may be found in judicious crop rotation, provisions for the maintenance of soil fertility, the manufacture of farm products, and arrangements for working men under conditions favorable to a reduction of expense for guard hire and general supervision. We recommend the establishment of a cotton seed mill to crush the seed grown on the farms, thus realizing the greatest value for this product. All of the standard varieties of vegetables most used for canning purposes may be grown abundantly on the farms and a cannery should be established which could easily provide for the requirements of the prison system, materially reducing the expenditures for high priced food; and the various State institutions might also be supplied with these articles. The cost of maintaining the work stock is now much too high, and this can be materially lowered with

advantage to the stock by the construction of a mixed feed plant on one of the farms, and the erection of silos upon all of them to utilize the large forage waste on the farms.

While it is impracticable for the prison system to engage to any considerable extent in the growing of live stock because of the acreage required, we believe the plan now undertaken of growing well-bred dairy cows for the use of the system a worthy one, and in time may be developed to the point of the maintenance of creameries upon profitable conditions.

The growing of hogs upon the farms should be profitable. Each camp should easily care for approximately one hundred hogs at a time with comparatively small cost.

Cotton, sugar cane and Irish potatoes are the money crops now relied upon. The corn is ordinarily inadequate to meet the demands of the system for feeding.

The yield of neither of the money crops in the recent past is sufficient to justify expectation of profit from their cultivation, but with the employment of proper administrative and cultural methods, we can see no reason why satisfactory conditions may not be developed and as good results achieved in the farming operations of the prison system as prevail in agricultural pursuits elsewhere in the South. With the ability to command the best talent in farm management and administrative methods, the Texas prison system should not be long in taking the lead in the State in demonstrating plans for the conservation and utilization of our agricultural resources and the value of intensified farming.

#### Sugar Cane.

The growing of sugar cane has been the subject of much discussion, and the committee made an extended inquiry into the subject. Our inquiries developed the fact that comparatively little cane is being grown in South Texas now, aside from that grown on the prison farms. The great burden of testimony secured by the committee was that, while cane might be grown and other mills has been unprofitable and growing of cane alone and its sale to other mills has been unprofitable and must continue to be until such time as better cultural methods result in higher average yields. Likewise, the burden of information justified the belief that the

State cannot hope to manufacture the cane into sugar at a profit. The principal cause for losses in cane cultivation is found in the lessened yields. The yield, for example, on the Harlem farm for ten years, from 1901 to 1910, shows the lowest average yield of any farm in the system, having been twelve tons per acre, the yield varying from 14.33 tons to 6.38 tons. This is only from one-half to one-third former average yields. Cane is a heavy feeder, and unless some plan of fertilization is used soon reduces the natural fertility of the strongest soil, resulting in unprofitable yields. Cane requires a great amount of moisture, and without irrigation the stubble will not uniformly furnish a satisfactory stand for more than two years; whereas, it has been the mistaken practice to depend upon some stubble for three and four seasons.

As a result of its inquiry into the culture of sugar cane, the committee recommends that the acreage of cane on the penitentiary farms be reduced to the minimum required to furnish syrup necessary for the system, and the cultivation of the crop be placed practically on an experimental basis. If investigation proves irrigation practicable, we have every confidence cane may be produced profitably, the testimony indicating that irrigation will usually double and sometimes treble the yield and mature the crop earlier, while not materially affecting the sugar content. Either with or without irrigation, we recommend the employment of some plan of fertilization every year, and the replanting of a crop every three years. With irrigation, commercial fertilizers are available, but without irrigation there is danger in dry seasons of injury to the crop, and some plan of renewing the fertility of the land, such as growing peas alongside the cane drill, must be followed. The entire product should be made into syrup. Should these experiments in cultural methods justify, the acreage could be increased and the cane made into syrup and packed into cans and other packages in such manner as to assure the highest market price for the product. For reasons of expediency, it may be found desirable to continue growing such acreage of cane as will meet existing requirements.

The cultivation of cane and its manufacture into sugar in South Texas has been for a long time a recognized industry. Sometimes profitable, but more often we believe unprofitable, and since

the passage of the present penitentiary law and the discontinuance of the convict lease system making it difficult and frequently impossible to command necessary labor to gather and move a crop promptly, the industry has gradually languished, until today it is practically abandoned by all save the State. A comparatively few farmers grow a limited acreage to make syrup. The investment originally in 1912 of \$268,500 in the Clemens farm sugar mill was made at a time when it was generally believed the manufacture of sugar offered the greatest profits of all our agricultural crops. In this sentiment, almost universal at the time, may be found excuse for the grievous error made in the erection of so large and costly a plant, and particularly so far removed from transportation facilities at the time, and in a place so inaccessible to any considerable body of land suitable for the growth of sugar cane. The most experienced cane growers interviewed by the committee agreed that there is not exceeding seventeen hundred acres of land on the Clemens State farm adapted to the growing of cane. Since this mill has been built, various sums of money have been spent in its repair, \$72,000 having been expended in 1912, and, with increased equipment, the mill today represents a cost to the State, directly and indirectly, of perhaps not less than a half million dollars.

Incidental to the Clemens sugar mill, and representing an expenditure that would not have been made but for the erection of the mill, is the construction of seven and one-half miles of railroad from the sugar mill on the farm to Brazoria, and the construction of seven miles of railway around the farm. This is all standard gauge track and represents a large and needless investment from which the prison system will never realize any material part of its cost.

The large Clemens mill is equipped exclusively for the making of sugar, being one of the largest and most modernly equipped plants of its kind in Texas. As it would require additional investment to equip it to make syrup, it would probably be best to enlarge the capacity of the mill at Harlem, a 400-ton mill, equipped for making syrup, as also sugar, which could be utilized to work up the cane crop. If sale could be found for the mill at Clemens, we would recommend its disposal upon any terms that would return to the prison system a reasonable proportion of its

cost. In our judgment, the continued attempt to manufacture sugar invites certain loss.

#### Fireproof Buildings.

A provision of the present law worthy of the attention of the Legislature is that stipulating for the erection of fireproof buildings upon the farms. The Prison Commission, deeming the cost of such structures prohibitive, have erected wooden buildings. Our inquiry developed the fact that no investigation was made by the Commission as to the difference in the cost of constructing reasonably fireproof buildings and wooden buildings, nor has the committee itself had time to institute such inquiries. We are of the opinion, however, that in view of the known fact that brick of good quality may be made from the soil on different State farms; that wood not valuable for other purposes might be utilized in the burning of the brick, and that the brick may be made with convict labor, the difference between the cost of fireproof and wooden buildings should not be great; and that if it be determined the policy of the State to retain these farms upon which to employ the labor of its convicts, the fireproof buildings should be constructed as rapidly as may be done with prison labor and consistent with good business judgment.

#### Organization and Management.

It is the judgment of the committee that radical changes in both the organization and management of the prison system are essential to the operation of the system upon a basis promising financial independence. The maintenance of two prisons, at Rusk and at Huntsville, imposes a financial burden that has no possible compensating advantages, and compels a division of managerial duties militating against the efficiency of the system. Both institutions occupy signally unfortunate locations for the purposes they must serve. We strongly recommend that the Rusk penitentiary be discontinued as soon as practicable, and that the machinery and other movable property of value be transferred to Huntsville. The tremendous losses sustained in operating the Rusk penitentiary during all the years since its establishment, furnishes unassailable justification for this recommendation. It may be the Rusk prison building will prove available for some of the institutions of the State, but the condition of the buildings since the losses last sustained

by fire within the walls, render the property of comparatively small value. If the buildings can be found serviceable to a degree that would recommend their adaptation to other uses, the lands held in that vicinity might be found serviceable, otherwise they should be disposed of.

#### Changes in Locations.

We recommend that the Prison Commission be authorized and directed to select, with the approval of the Governor, a new location as central as may be found practicable for the headquarters of the penitentiary system, and to acquire in one body or near together such amount of land as may be deemed requisite to provide farm land for the white convicts not employed in manufacturing enterprises, or until such time as it may be found advantageous to work them in the walls. Convict labor should be utilized as far as practicable in constructing headquarters buildings at the new location in such way and to such extent as will make possible the removal of penitentiary headquarters from Huntsville to such new location not later than January 1, 1920. The determining reasons for the recommendation of a more central location for the headquarters elsewhere than at Huntsville, and farther north than the vicinity of the penitentiary farms are: (1) The demand for the complete separation of the white convicts from the negroes; (2) the desirability of a central location, together with greater accessibility to transportation facilities, and (3) the widespread belief that such location will be more healthful for white convicts, the greater proportion of whom come from counties considerably north of the prison farms; and which feeling shared by the convicts, it is feared, may affect their usefulness to the prison system. Should the recommendation that all young men under twenty-one years be sent to a reformatory be approved, we would suggest the advisability of closing the Gatesville Reformatory and placing all the youths at Rusk, and employing them upon the farm and at such other work as may be found practicable until such time as the penitentiary headquarters shall have been moved from Huntsville, when they can be transferred to Huntsville as being much better equipped for a permanent reformatory and manual and industrial training school.

#### Changes in Law.

The conduct of the prison system upon the humanitarian lines embodied in the

present law is approved by the sentiment of the people, and there should be no action taken which would affect the standard therein established. From a careful study of the operation of the law, however, the committee is convinced that a number of changes must be made before the results expected from its provisions when enacted, may be realized, and before the system can be administered with the greatest advantage to the convicts and with credit to Texas.

We recommend that the Prison Commissioners be appointed by the Governor under the provisions of the law authorizing terms of service for six years, the term of one Commissioner to expire every two years. The salaries and duties of said Commissioners to be fixed by the Legislature, and they required to give their time to the service of the system. Careful study of the operation of the present law providing for a Board of Pardon Advisers leads us to the conclusions that this law should be revised and the duties now discharged by the Pardon Board should be performed by the Prison Commission.

We recommend that there be created the position of general manager of the prison system, such official to be appointed by the Prison Commission, with the approval of the Governor; and to receive such salary as the Legislature may determine, said salary to be not less than \$5000 a year. The general manager should be vested with the execution of the policies outlined by the Commission, conduct general business transactions, and have the execution of the rules governing the control of convicts. The present division of duties among the Commissioners stipulated by the law has unquestionably been productive of confusion and expensive delay in the administration of the affairs of the system, and a hindrance rather than an aid to efficiency of management, and should be eliminated.

The committee is convinced that the only method to be pursued in the financial operations of the prison system, is to be found upon the same basis as those of other departments of the State government. The State should appropriate annually a sum approximating that required for the maintenance of the system. All expenditures should be paid by the State Treasurer not of the penitentiary appropriation on warrant, drawn by the Comptroller, accompanied by vouchers bearing the approval of the auditor of the Prison Commission. All revenues derived from the operations of the prison system should be covered into the State Treasury. The State Treas-

urer should maintain a separate account showing penitentiary expenditures and receipts in order that information concerning the cost of maintaining the institution may be available at all times. It seems to us that any other method must present serious interference with the wise humanitarian intent of the people as expressed in the statutes, and also subject the prison management to the frequent expedient of seeking financial aid and credit for necessary equipment and supplies for operating and maintenance expenses under conditions calculated to increase the cost to the State according to estimates furnished the committee by those best qualified to know, this being anywhere from 5 to 15 per cent.

#### Accounting Department.

Since the first audit of the accounts of the prison system in 1909, considerable improvement has been made in the accounting department of the prison system, but there are many changes and improvements that must still be effected before the accounting system will respond to the magnitude and variety of detail involved in the conduct of penitentiary affairs. The Prison Commission should employ an expert accountant for the specific purpose of reorganizing the accounting methods of the system in their entirety, and inaugurate a system adapted to meet the requirements of detail involved in the operations of the penitentiary.

It is our judgment that the auditor of the prison system should draw and sign voucher checks for expenditures, forwarding such vouchers to the State Comptroller, who should countersign them and forward to the State Treasurer; the Treasurer should enter the voucher number and amount, pay and stamp, and return the original voucher to the Comptroller, who should retain all vouchers on file in his office. By this means unnecessary expense might be obviated in the Comptroller's office.

The prison system needs a more equitable division of the general expenses of the system. The expenditures should be carefully classified to indicate those incurred for maintenance, operation, and general system and overhead expenses. A thorough system of accounting should then be installed, by which the per capita of expense for each of these divisions may be properly ascertained and charged against the several activities of the system.

We believe a competent citizen bookkeeper should be employed on each farm, but convicts can and should be utilized in minor clerical positions.

#### Method of Making Purchases.

Much has been said respecting the probable advantages to result from purchases for the prison system being made by the State Purchasing Agent. The committee made some inquiries on the subject, both at Huntsville and Austin, and while convinced that some articles may be bought to distinct advantage by the State Purchasing Agent, the extent of our inquiries would not justify the conclusion that all purchases for the prison system should be so made. There can be no questioning the fact that staple articles bought in large quantities result in securing closer prices, and we would recommend that the services of the State Purchasing Agent be employed wherever investigation and experience show it advisable.

In this connection we would urge upon the officials of the State consideration of the possibilities in increased efficiency of business management and economy of administration by bringing the various departments of the State government into closer business relationship.

#### Punishment.

Great stress was laid upon the method of punishment by almost all of those interviewed by the committee. Many of the most experienced managers and guards expressed the belief that the record will show more mutinous conduct has resulted, more disobedience has been manifested, and more punishments have been necessary as a result of the popular agitation of the question, which finally resulted in the complete suspension of the use of the strap, than were required when the rules of the Commission permitted its use. It seems undeniable that although other methods of punishment used may be more severe, the convicts, both white and black, fear the strap more than any other form of correction ever employed in the prison system. And should the committee follow the overwhelming weight of testimony of citizens as well as employees adduced at its hearings, it would unqualifiedly recommend that the order to suspend the use of the strap be revoked. From the time the law became effective on January 20, 1911, to the date on which the Commission formally suspended the use of the strap, March 25, 1912, fifteen months, there were 288 whippings. In 1912 there were 1,476 punishments by placing in the dark cell, and 473 punishments by the chains. And from April 1 to December 31, 1912, there were thirteen mutinous

demonstrations in which a total of 283 men participated.

In this connection it may be of interest to state the records disclose that in 1909 there were 751 punishments by the strap and 68 placed in the dark cell. In 1910 there were 1,045 punishments by strap and 47 by the dark cell, while four mutinies occurred involving 78 men. In 1911, while the strap was used sparingly, as above indicated, the dark cell was resorted to 1,079 times, and the chains, a substitute punishment for the strap, was employed 99 times. Five mutinies occurred that year, participated in by 176 men. These records would indicate that for some reason 1912 was productive of an unusual display of mutinous conduct as also of ordinary infractions of prison rules.

While the committee believes that under the restrictions imposed by the law, the use of the strap is really less cruel than solitary confinement in the dark cell, less degrading than the chains used as a mode of punishment since the suspension of the strap, and that the subject has received more partisan attention from the public than the carefully limited power to use the strap only upon third class men warranted, we recognize quite fully that the sentiment of the public demands the abolition of whipping in the penitentiary; and that to insist upon a retention of the strap in the face of such antagonistic public sentiment would merely mean to invite demoralization among the convicts. Discipline among the men must be maintained, and the prison authorities are confronted with the imperative necessity of determining the methods to be employed in controlling them. Perfect control and obedience to prison rules is as essential to the welfare and possible reformation of the men as it is to the interests of the State in minimizing the expense for their care. More or less unruliness must be expected and provided against, and such system of punishment should be established as will visit just and equal correction according to the degree of the offense against prison regulations.

The committee is firm in the belief that the hope of reward exerts a better disciplinary influence than the fear of punishment; that equality in the imposition of sentence, uniformly fair treatment in the matter of credits on terms of service, together with humane treatment, will secure the best results in the course of time. We would provide liberal credits on time of sentence for good conduct, and heavily penalize vicious con-



duct. We would establish the policy of granting pardons upon the merit basis. Once you give the convict body to know the State punishes every man with equal justice; that the man without influences, friends or money can secure a pardon as quickly as the man of political influence and personal means of wealthy friends, and you will have introduced into the system one of the strongest possible forces leading to discipline, and a spirit of co-operation with the prison management.

It is our opinion that when the Penal Laws of Texas shall have been revised and provisions embodied therein recognizing and making effective the intent and spirit responsible for the passage of measures of the character of indeterminate sentences, such laws, when in full operation and well understood by the convicts, will exert a strong disciplinary influence.

#### Grading Convicts.

Progress has been made by the Commission in the effort to classify the convicts with regard to the provisions of the law on the subject; but it seems that the difficulties of this feature of prison management have been so great as to prevent the degree of advancement along these lines which would serve to indicate the results to be achieved by a carefully devised system of classing and grading the inmates of the penitentiary. The chief defect in the efforts thus far made to enforce rules of classification lies in the absence of equitable increase and decrease in the privileges accorded to convicts in recognition of good conduct, or as a rebuke for disobedience. The method of handling third-class men is also such as to affect, to a material extent, the discipline among the convicts, and to exert a direct adverse influence upon the spirit of the entire convict body. We would suggest that no feature of prison management is more deserving of careful investigation than the classification of the convicts, nor in any line of endeavor in convict control capable of producing more beneficial results in prison discipline. Each convict, when received, should be accompanied by a statement from the trial court disclosing all known facts concerning his criminal record, as also his general reputation. He should then be placed in Class No. 2 and advised that his previous record has been set aside and that he enters the prison on equal terms with every other man and will have an equal opportunity to establish and maintain a

clear record during the period of his sentence. We are led to believe that many men with reasonable encouragement to feel that their previous record will not affect their treatment or their classification, or advancement in the walls, will respond to such expression of confidence, and advance rather than fall. The rules providing for the placing of men in the third class should be drawn with care to meet the various frailties of human nature, and a just appreciation of the conditions surrounding prison service. We believe it often occurs that a man is degraded to the third class when better results might be achieved by giving him further opportunity to conduct himself properly; also that men whose conduct justifies placing them in the third class are sometimes held in that class too long, becoming embittered, and the corrective influence intended results unfavorably to the men and to general discipline. Under no circumstances, in our judgment should those in stripes be worked in connection with men of other classes. The association hardens and embitters the third-class men, while exciting undue sympathy among the men in other classes with whom they are brought in contact.

All third-class men should be segregated; and when their conduct is such that they may be justly classed as incorrigible they should be held within the walls where they may be isolated when deemed best, and where greater efforts at improvement in their conduct may be undertaken.

When men are entitled to enter the first class they should be accorded such reasonable additional privileges as will establish in the minds of the convicts a distinct inducement for endeavoring to secure promotion to this class; and when degraded to the third class there should be an equitable decrease in the privileges accorded.

Numerous suggestions have been advanced respecting plans for rewarding the well behaved convicts who display an honest desire to co-operate with the authorities in the work of the prison system. The committee is reluctant to indulge in theories or to suggest experiments; but, after considerable thought, is constrained to believe it practicable to advance along experimental lines in providing a higher degree of reward for good conduct under prison regulations, to the extent of setting aside one camp on one of the farms to be known as Honor Camp; the Commission to pro-

mote a number of men from each farm to this camp, which should be conducted under the direction of a competent farm manager, and without guards. The committee entertains no illusions and does not doubt that many of those trusted in the manner suggested would prove recreant or weak; nevertheless, if care is exercised in selecting the men the plan should prove a success. A similar policy with reference to men employed in other occupations should be readily advised.

#### Health.

Representations have been made that the men received, in the penitentiary in recent years, are not the equals physically, of the convict body of ten or more years ago, suggested to the committee special inquiry upon this feature of the prison problem as exerting a possible influence on the value of convict labor in the work of the system. Our inquiries lead us to believe that it is true the penitentiary is receiving a larger number of comparative youths incapable in many instances, of as much labor as the more seasoned men of previous years; that a great many of these men come from the cities and seem to be unacquainted with any form of useful labor; and are largely from the ranks of those accustomed to excesses of every character, bringing with them diseases of various kinds. The comparatively few deaths in the penitentiary under these conditions is gratifying, and evidence improvement in sanitary provisions maintained by the Commission. The deaths for the year 1912 were fifty-four.

It is the judgment of the committee, from the best information available, that the treatment of the convicts is more liberal in privileges and more lenient in requirements than ever before, and that the inmates of the penitentiary and those on the farms are better fed and clothed than at any time in the past. The method employed in preparing food on the farms is so liberal as to be really wasteful, and a reasonable degree of economy in this detail would save the prison system considerable expense, without in the least effecting proper care of the men.

#### Guards.

The guard service is an exceedingly perplexing problem. At the present time there are 310 guards in the service, which is an average of one guard to each sixteen convicts, in the two penitentiaries, and one to each thirteen convicts employed on the farm. This repre-

sents a considerable item in the overhead or operating expense of the system, and calls for serious and persistent effort to establish better service. In all the years of the operation of the system reviewed by the committee, there seems to have been no appreciable improvement in the efficiency of the guard force for the work required of them, though there has been an improvement in the moral standards of the men. The great need is for the inauguration of some plan by which the prison system can build up a guard service composed of men possessing tact in the management of convicts, knowledge of the farm work under their direction, and earnestly committed to the duty of accomplishing the best results, both for the prison system and the men in their charge. Such a plan would materially reduce the number of guards necessary, establish working relations between guards and men; and though it might not to any material extent reduce the cost of the guard service as a whole, would produce far greater results in more profitable work, better discipline, and greater advancement toward reformation among the convicts. The committee is disposed to urge a plan recognizing merit service rules, the guard beginning at a minimum salary, and leaving it to the discretion of the Commission to advance the compensation in accordance with a system of regulations governing the service, intended to demonstrate the value of the guard to the work of the prison system and his adaptability to the special character of service required. It is an unfortunate fact that the present method of handling the guard service fails either to attract men of the most desirable character, or to retain them in the event it is fortunate enough to secure such. Improvement in this detail of prison management is one of the essentials to the establishment of that standard of discipline necessary to a business-like administration of prison affairs.

#### Working Hours.

The provisions of the law for working convicts ten hours a day, including the time consumed in going to and coming from place of work, was considered reasonable and just to both the State and to the convicts when the law was enacted. The evident intent was to permit the State to secure approximately ten hours of labor a day from its convicts; owing to the arbitrary terms of the law, however, no discretion is accorded the Prison Commission, and the result is that with

the short days of the winter season the average day's labor performed is far below that intended by the law, less than is performed by free labor, and is practically unresponsive to the requirements of farm work. It has been urged upon the consideration of the committee by farmers of prominence and of long and successful experience in handling labor, that the greater part of the unprofitableness of farming operations of the prison system during the past two years is chargeable to the inability of the State to secure a fair day's work from its men, thus requiring a larger number of men on each farm than formerly for the same acreage, or the same amount of farm duties, increasing very greatly the cost of practically every detail of prison system work.

The committee is convinced of the necessity, as also the justness, of such revision of the law as will make our convict labor responsive to the demands imposed by the proper conduct of the various activities in which the State may find it best to engage, and would recommend that the Prison Commission have authority to adopt a scale of hours varying with the seasons, and the necessity for longer hours of work, in order to meet the emergencies of crop cultivation, keeping an accurate record of the time worked by the convicts, and securing from each convict an average of ten hours of labor a day throughout the year. If the record of any convict shows that he has worked more than an average of ten hours a day, he should be allowed the usual credit for overtime.

In the urgent crop growing months free labor is often worked twelve hours for short periods and it is not unreasonable that the State convicts should respond to the necessities of the prison work.

#### Per Diem.

The provisions of the law authorizing the payment to convicts of ten cents a day, it was thought, would exercise a good disciplinary effect upon the convicts. The terms of the law are that "every prisoner who shall become entitled to a diminution of his term of sentence by good conduct shall receive compensation from the earnings of the State prison to the amount of ten cents a day for the time said prisoner is confined in prison." This phraseology indicated an intent to limit the extension of the per diem payment; but in practice the payment has been extended to all of those entitled to diminution of sentence

and those really not so entitled. Thus, instead of having a salutary effect, the plan may exert a tendency to create dissension, the good men being made to feel their efforts at useful service are no more appreciated than the indolence, carelessness and rebelliousness of some of their fellow convicts. It is a question whether or not this per diem payment ever results in any substantial benefit to at least three-fourths of the prison inmates. After mature consideration of the question, the committee recommends that the paying of ten cents a day or any cash per diem, be discontinued. The one thing men prize more highly than any other is liberty. Therefore, in lieu of the payment of the cash per diem, we suggest the law be amended to permit the convicts to receive a credit of ten cents a day for good conduct, each dollar of such credit to secure for him a diminution of his term of sentence for a period of one day, such credit to be in addition to the credits now provided by law. Each infraction of the rule should be penalized by taking away credit on the term of sentence, as may be deemed equitable.

It seems that under the method pursued in the release of convicts engaged on the different farms at the expiration of their term of service, minor speculations have occurred under the provision of the law authorizing the released men to demand a ticket to any part of the State he may desire. We would recommend that the law be changed to provide that a man may receive a ticket to the place from which he was convicted, or to the nearest railway point thereto, or to a point equally distant from the penitentiary.

#### Conclusion.

The prison system is a great business institution; as also the greatest and most difficult of moral training schools; and it must have the service of men capable of grasping and measuring up to the duties imposed by the gravity of the problems involved, freed from the fear of partisan influences, and independent of public agitation. Satisfactory results, financial or moral, may not be achieved without the services of men of capacity and special aptitude for the work, and the services of such men are not to be measured by the ordinary standards of compensation for public service.

The prison system must have adequately equipped headquarters, with provisions for occupation and calculated to be of future usefulness to the convicts,

and, therefore, protective of the well-being of society; and sufficient lands on which to employ those to whom it would be impracticable to teach an occupation. It is the imperative duty of the State to provide necessary funds with which to achieve these purposes.

The laws must be revised until the convict is brought to know that the State dispenses justice with an even hand, and extends mercy without discrimination. The great majority of convicts soon return to society, and it is quite as important to deal justly with them as convicts as it is to maintain uniformity in the laws governing our free citizenship. Through such a policy are we most likely to appeal to and enlist the sincere co-operation of the convict necessary alike to the financial advantage of the system and to the moral reformation of the man.

The prison system has suffered long and greatly from the demoralizing power of political interference, and neither the financial independence of the system, nor substantial advancement in the moral reformation of the convicts, may be expected until the business considerations in the management of the affairs of the system supersede political influence, and merit supplants favoritism.

Respectfully submitted,  
MAYES, Chairman.  
WILLACY,  
WARREN,

On the part of the Senate.  
HUMPHREY,  
DIFFIE,  
TILLOTSON,

On the part of the House.

#### MINORITY REPORT.

Hon. O. B. Colquitt, Governor,  
Austin, Texas.

Sir: The majority report covers so much ground and represents so much earnest labor of the committee that I signed same, but with the understanding that I be allowed to submit a minority report covering certain matters either omitted, or, in my judgment, not discussed in sufficient detail. I dissent from many of the majority conclusions.

The causes leading to the investigation and appointment of the committee and their method of investigation have been recited.

So far as the record discloses, there has been no dishonesty practiced in the creation of the deficit. There has been serious mismanagement and the system reeks with inefficient service, but there is

no evidence of moral delinquency upon the part of those charged with the control of prison affairs.

The financial troubles of the system date from January 20, 1911, when the new law became effective and the present Commission assumed control. It follows that the deficit is traceable to the new law or the Prison Commission.

The record shows conclusively that the fires and the freezes of which we have heard so much played but a very small part in formation of the deficit, and that the money shortage is not caused either by abolishment of the lease system or by the expenditures for permanent improvements, except in very small part.

As stated elsewhere, the committee did not direct an audit of the prison books. Four audits were placed at their disposal, statements of which are set out in majority report.

The first of these audits, made by the Corporation Audit Co., of Dallas, Texas, for a period of nine years time from August 31, 1900, to August 31, 1909, shows a net profit for the system during that time of \$563,500.40, this not including enhancement in value of property. Of the other three audits the first was presented by Mr. F. J. Huey, certified public accountant, of Houston, Texas, and shows conditions as of date, January 20, 1911. The statement of assets and liabilities shows that, at that time, the system had assets valued at \$4,019,167.21, as against which the total indebtedness was only \$147,158.55, this latter including \$100,000.00 railroad bonds.

On June 27, 1913, the Prison Commission furnished the committee a statement which shows the current indebtedness to have grown to the enormous sum of \$1,786,270.32. As against this are shown current assets aggregating \$332,000.00, \$55,000.00 of which is an increase in the worthless State railroad account, and more than \$118,000.00 is classed as doubtful; in other words, worthless. Meantime the Thirty-second Legislature appropriated \$310,000.00 and donated that sum to keep the system going; the Thirty-third Legislature this year donated \$550,000.00 to keep the system going, of which on June 27, 1913, there remained unexpended only \$206,888.81. Thus upward of \$650,000.00 have been expended out of the general revenue, in addition to prison receipts. The debts are as above indicated. The property account shows an increase to December 31, 1912, of \$441,151.17, and in

my humble judgment, the facts do not warrant such figures.

Thirty months have elapsed since the new law became effective and the present Commissioners were sworn in. A careful analysis of the figures will show that during the thirty months there is a total loss, in round figures, of \$2,400,000.00, in addition to all ordinary prison receipts from sales of crops, etc. The average number of prisoners cared for during that time is less than 4,000. Thus, it has cost the tax payers of the State \$20.00 per month per man to keep up the penitentiary system for thirty months under the new law and the present management. Now, bearing in mind that on January 20, 1911, the Commission took charge of an institution which had rapidly made money, which had in charge 4,000 able-bodied convicts and four million dollars' worth of revenue-bearing property, the mind is staggered to contemplate this enormous deficit. The finding of the cause for this deficit and suggesting means whereby it may be wiped out and recurrence prevented was the task entrusted to the committee.

#### Why Have a Penitentiary?

To the reflective and patriotic mind engaged in a study of this enormous and complicated problem must come the question, "Why have a penitentiary?" and "Why punish men for crime?"

Libraries have been written and will be written in answer to these questions, and discussing the right of organized society thus to protect itself, but we will be content with the arbitrary answer of our criminal law that the object of punishment is, (1) to suppress crime, and (2) to reform the offender. (P. C., Art. 2.)

The right of the organized many to deprive the individual of his liberty for crime must be assumed. Upon it hinge all the government and all the law. But nowhere can justification be found for any law or custom that has not for its end either the prevention of crime or the reformation of the criminal. The thought of vengeance can have no rightful place in the law of a Christian nation. Vengeance is not man's to give nor man's to take. It belongs to a higher power. Not always swift, but always sure and always complete it is executed and delivered under the mandate of a supreme court indeed, a tribunal where technicalities do not count, where criminal lawyers do not practice and where mistakes are never made.

Then, the thought of vengeance re-

moved and the right to punish conceded, all righteous law must bend its whole purpose to the accomplishment of the two things named, and that system will be most nearly perfect which prevents most crime and reforms most offenders. No system has ever been devised, nor can be devised which will result in the absolute prevention of crime, nor has any system been devised, or can be devised, which will reform every criminal, and any statement as to the amount of crime prevented or the percentage of criminals reformed by criminal law must be purely speculative. Yet human intelligence teaches, and human experience demonstrates, that the only safety for organized society in its rights of person and of property lies in its ability to punish criminals.

Further, all experience teaches that certainty of moderate punishment both as a deterrent of potential criminals and as a first step in reformation of convicted offenders is more effective than harsh, severe penalties without certainty of infliction. The criminal mind dreads less the thought of a harsh penalty which is easily evaded than a moderate penalty which is certain to be inflicted.

From this thought may be gleaned a comfort to those who believe that prevention of crime lies in the enforcement of the law; and it is in the policy of our Court of Criminal Appeals that appealed cases shall not be reversed for purely technical reasons. The more rigid enforcement of this policy recently has resulted in an increase of about 500 in our prison population. At least, since January 1, 1912, the number of prisoners has increased about 500, and no other explanation seems more satisfactory when the increased percentage of affirmances is contemplated and the corresponding reduction in the number of reversals. Whether the ultimate result of this policy will be for good or for evil can only be surmised. If it shall result in prevention of murders, or rapes, or burglaries, or other crimes, then shall wisdom be justified of her children, but if it shall result only in an increase in the number of criminal convictions, then our recognized legal theories are wrong and we had best abolish all criminal law. In this connection it may be noted that certain changes in the criminal law were made in 1897, and by the date the changes became effective, in 1898, the number of prisoners began to reduce from 4,530, which was the highest figure ever reached. On April 1, 1913, the number was 4,048.

However, the policy of the law or the courts is only collateral or incident to the main question with which we are concerned, namely, how to find the cause for the deficit, and make the penitentiaries self-sustaining? and can affect it only insofar as a reduction or increase in the number of convicts is involved, leaving personal and property rights amply protected. And in that connection, reference may be had for a moment to the cause, or causes, which most contribute to an increase in the penitentiary population; for it necessarily is true that under present conditions or any normal conditions, the lower the number of convicts, the higher the burden to be carried by the people. What those causes may be in other lands, or at other times, we cannot say. We can only testify as to Texas, in this day and generation. Hereditary predispositions and sociological influences are for the scientist, the penologist and the statistician. We have had no time to compile pedigrees nor measure general averages, but based upon the tables contained in the official reports of the system, combined with the statements of persons who have associated with convicts for years, and conversations with hundreds of convicts themselves, we must conclude that the three principal and underlying causes contributing most to the population in the penitentiary system in Texas are idleness, ignorance and intoxicating liquor. Every scrutiny of the official records will sustain this position to the last analysis. It is a truth that will "bide the wreck of time, and stand 'mid the crash of falling worlds." There's many a road that follows to the penitentiary, but the trail of idleness is the principal thoroughfare,—and it always leads through a saloon, never a school house. From all over the State the army of the illiterate and idle flock to the penitentiary, and every liquor joint is a recruiting station. More than 60 per cent. of the prisoners are entered as having no trade, calling or profession; 50 per cent. are illiterate; 40 per cent. have some of the rudiments of an education; 10 per cent. have good education; 50 per cent. are intemperate, and that means to drink excessively. To make a convict then, try the following: That the ordinary child; raise him in idleness and untaught and he is almost ready. Give him liquor and the thing is done. Idleness, ignorance and alcohol are the three chief causes, and of these alcohol is the principal one within itself, and a necessary assistant to each

of the others. It is most dangerous, because it breeds both the others; with its banishment the deadly influence of both the others would greatly weaken. That it is the principal contributing factor to the penitentiary's population is proven and established by all the records, but the one supremely convincing bit of testimony is that in those counties where the traffic in liquors is forbidden, the number of convicts is reduced to a minimum, and in those counties where the traffic is permitted, the number is increased to a maximum. This statement is sustained in every point by the official figures in every report that has been made of the system. If, here and there, can be found a seeming exception, deeper investigation will show it to be one of the exceptions which prove the rule. The latest report furnished to us covering this subject was dated January 1, 1912. Comparisons may sometimes be invidious, but they are likewise sometimes instructive. This report shows, for instance that Harris county, with a population of 115,693 has 280 prisoners, and Harris county permits the traffic, while 76 northwest Texas counties, all but two of which forbid the traffic and where the population numbers 521,760 have only a total of 202 prisoners. It is useless to try to explain that any other cause than the liquor traffic is responsible. They are all the same kind of people, all Texans. The difference in the density of population will not account for the difference in the number of prisoners, because the cities are policed and the rural communities are not. One of the 76 counties which permits the traffic has 27 prisoners, though it is much smaller in population than many of the others, and no other of the 76 has more than 13 prisoners. These comparisons can be indefinitely continued with the same results. Carefully calculating all the figures and considering all the facts, it seems safe to say that the suppression of the liquor traffic all over the State would reduce the number of convicts from about 4,000 to less than 1,500. Probably a compulsory school attendance law would be beneficial in some localities, but no statistics are available to prove the suggestion. It appears from the records in the Comptroller's office that the total amount received annually from the sale of liquor licenses by the State does not exceed \$1,000,000.00, which is emphatically a mere trifle as compared with the expense resulting from the sale of the licenses. Inasmuch as liquor is a merchandise, the sale of

which can be controlled by law, and the other twain of this unholy trio are in some measure dependent upon it, the problem of dealing with them would appear to be largely a question of the vigilance and intelligence of our people.

Certainly, the most effective way to deal with the penitentiary question is by removing as many of the underlying causes for its existence as can be reached. And the maintenance of the prisoner after conviction is only a part of the expense of maintaining a system of criminal law. The machinery of the courts must be kept going. Officers' salaries must be paid, and witness fees; court houses erected and libraries gathered, and many men employed in its execution who are needed by the community for other work. Uproot the underlying causes, and you reduce the convict expense as well as the court expense.

And if the money expense were all, less might be said; but the greatest price cannot be paid in dollars and cents; it is collected in human blood, in tears of women, in groans of men, and in the cries of naked, hungry children. Every convict uniform symbolizes a broken heart, a desolated home. Nothing can it signify of good,—nothing save in hope of preventing other crimes and making the wearer a better man. Why have a penitentiary, and why punish men for crime? But the financial question recurs.

#### Texas Prison Policy.

The general prison policy of this State naturally divides itself into three periods: (1) the past policy under the old law; (2) the present policy under the new law; and, as it is evident, the present policy must be changed or the State bankrupted, (3) the future policy.

Past and present policies are sufficiently discussed elsewhere, no proposed future policy, I assume, will be tolerated which contemplates any abandonment of the humane treatment of prisoners under the new law, and only such changes are to be considered as may promote the financial efficiency of the law and yet leave the prisoners well cared for.

Despite the uncertain methods of account keeping used in the system, it is plain that the only reliable source of profit is the farm owned and operated by the State. Enough expensive experiments have been indulged. The system should, for a time at least, follow such work as is known to be profitable.

The iron industry has always been a loser; the State railroad has cost prac-

tically a million; the manufacturing enterprises have netted only a tremendous loss; the lease and share farms have drank money like the thirsty bed of the Canadian; only State owned farms are safe.

The testimony shows that the State should own from 50,000 to 75,000 acres of fine farming land; it now owns about 25,000 acres, all but 8,000 acres of which are already in cultivation,—the figures referring only to the choice farming land.

Convicts can not be cared for in proper manner on farms which the State does not own, simply because the owners cannot afford to erect the jail buildings in a sanitary way. The State's experience in the Ransom matter, elsewhere detailed, should settle that point.

I dissent from the conclusion of the majority that the lower Brazos is now an unhealthy country. The testimony says otherwise. (Tittle, Brahan, Dr. Bush, Tramwell, House, and others.)

Now, the evidence overwhelmingly shows that the Rusk and Huntsville institutions are sinkholes for money; that formerly the system made money in spite of them, not because of them; that the isolated location of each is a serious handicap from every view-point; that a headquarters should be located elsewhere. If the system is to be consolidated, headquarters should be in the neighborhood of the farms. If the present farms are retained the headquarters should be in their vicinity; if they are sold and others bought, the central prison should be located near them.

Many witnesses testified to the desirability of a central prison. (T. W. House, p. 23; W. H. Gill, p. 1; L. W. Tittle, pp. 6-8; J. A. Herring, p. 16.) There should be only one penitentiary. (B. E. Cabell, p. 22.) "The system should be centralized and located at Columbia on the Brazos." (J. M. Moore, p. 2.) The Rusk penitentiary should be abandoned. (Barton, 10; R. W. Brahan, 13.) One witness said the system should be moved into the cotton country. (J. A. Herring, p. 19.)

#### Convict Discipline.

The biggest single problem is the maintenance of convict discipline. Were the prisoners normal men, the problem would solve itself; their presence proves them not normal men. As a class, on the outside, they refused to submit to authority. Of 3,471 prisoners accounted for January 1, 1912, 962 were convicted of burglary, 764 of murder, 144 of rape,

113 of robbery and 541 of theft. Those figures are given to show the character of the individuals. How to keep them together, make them self-supporting and yet treat them kindly is the real problem. It is as old as civilized government and has been "solved" a thousand times. Penologists have written volumes about it; politicians have shed tears over it; statesmen with patriotism and courage in their hearts have grappled with it, and yet we have it with us.

The most serious trouble with the system now is the lack of convict discipline. (J. M. Moore, prison auditor, p. 7.)

The old law permitted whipping only in aggravated cases, but left much discretion in the hands of employes and some cruelties resulted. The new law provides for whipping but so safeguards it as to prevent abuses; so far as the committee could learn there has been no abuse whatever of the rights of punishment by whipping under the new law. Early in 1912 the Prison Commission published a declaration that the use of the whip would be discontinued. (See minutes of Prison Commission.)

Beyond any doubt, according to the testimony, this step has caused tremendous trouble. The law gives the commission the right to refuse to order a whipping and the proper course would have been to refuse each separate application, if they desired. Instead, public notice was given that the whip would be used no more and in its stead were adopted the dark cell and the chain.

The former of these methods, the testimony says, is of very little value, particularly among the negroes, who regard it with good-natured contempt. (Addison, Weems, Tramwell, Palmer et al.)

The latter method is generally conceded to be more cruel and much less effective than the whip. (Brooks, Mills, South, et al.)

There is much testimony that under the new law very few whippings were necessary, and that the discontinuance of the whip led to riots, mutinies, attacks on guards resulting in loss of life, and similar trouble. (Brooks, Mills, Lewis, et al.)

#### Convict Labor.

It is plain that if the convicts do not work they will not be self-sustaining. The law limiting a day's work on the farm to ten hours is blamed with much trouble, but probably inefficient management, clock-watching guards, and the discontinuance of the whip have entered

into the making of present conditions as well as the ten hour limit.

One witness who has handled convicts since 1874 says they cannot be made self-supporting under present labor limit, without the whip. (W. W. Bertram, p. 9.) The capacity of the prisoners for iron industry work has been cut in half by labor limit and loss of the whip. (W. H. Lewis, p. 4.) On the Clemens farm the prisoners work ten and one-fifth acres of land per man, free labor in same community works 24 acres per man. (Brooks, p. 6; E. B. Mills, p. 7.) On the Imperial farm the convicts work ten hours per day in busy season; free labor in same community works fourteen or fifteen hours. (Addison, p. 3.) Under the former law they worked about twenty acres per man; now twelve or fourteen. (T. W. House, p. 9.)

The testimony is absolutely unanimous that the convicts do not do as much work per man as free laborers engaged in the same kind of work, probably not one-half as much as an average.

Convict labor is not satisfactory for manufacturing purposes at all. (Gill; Herring, et al.)

#### Farm Managers.

Each of the State's four splendid plantations, as well as the two magnificent leased plantations is under immediate charge of a farm manager. This is a good position. It carries a salary of from \$150.00 to \$175.00 per month, house rent, commissary supplies, horses, horse feed and abundant convict service.

Each of these men is competent and well fitted for this work. (J. A. Herring, p. 15.)

T. C. Blakely, manager at Harlem, received his training under the old law, and declared that good work cannot be obtained from convicts under the new law, if they do not want to work, which most of them do not. (T. C. Blakely, p. 3-20-21.)

E. C. Mills, manager at Clemens, is not in sympathy with the new law. Received his training under the old law. (E. B. Mills, p. 10.)

J. N. South, manager at Harlem, says "bat" is convict's best friend; received his training under the old law; criticizes new law freely; says under new law convicts cultivate ten acres per man as against twenty acres per man under old law. (J. N. South, p. 3.)

A. K. Addison, manager at Imperial; K. F. Cunningham, manager at Arcola, and J. H. Weems, manager at Retrieve,



all criticize new law freely, and say good work cannot be gotten under it. Weems did not receive his training under old law. (Weems, p. 1; Cunningham, p. 1-5; Addison, p. 1-9.)

These six farms are located close together and connection between them is easy. If under one manager instead of six, better co-operation and better service could be had, and the system's pay roll would be reduced about ten thousand dollars per year and a similar saving effected in supplies, horse feed, etc.

#### Litigation.

The litigation now pending, to which the system is party, consists of two suits, one in Walker county, the other in Fort Bend county, with the Imperial Sugar Company. These matters are in the courts and outside the jurisdiction of the committee.

#### Religious Services.

Little if any effort appears to have been made to provide religious services or literature for the prisoners. The testimony of the venerable chaplain of the system, Dr. T. H. Hall, is interesting, but too lengthy for reproduction. He says there is an urgent need of Bibles, that many of the convicts can read a little and that many of them beg for Bibles.

#### Wearing of Stripes.

The old law contained no restriction as to wearing of stripes; the new law limits stripes to prisoners of the third class.

The testimony shows that wearing of stripes is not effective as a punishment, and that keeping prisoners in stripes with other prisoners has a demoralizing effect on all prisoners; that segregation of third class prisoners is necessary. (Palmer, Weems, Cunningham, Moore and others.)

#### Guards.

The question of guard service is a most perplexing one. The guards come into immediate touch with the prisoners. With the efficient guards almost any law will succeed; with drunken, worthless guards, no law will succeed. It is frequently necessary to discharge guards for drunkenness and misconduct. (Cunningham, p. 2; South, p. 15.) Using trustees as guards would be a dangerous and unsuccessful experiment. (Herring, p. 13; Tittle, p. 28; Addison, p. 4; Blackley, p. 24, and many others.)

Number of guards could be greatly reduced. (Thomas, p. 20.)

The guards are in sympathy with that part of the new law limiting the hours of work; they watch the clock closely. (House, p. 15.)

#### Bookkeeping.

On this subject the entire testimony of F. J. Huey is very interesting, as also the prison auditor, J. M. Moore.

The books are worthless and do not give the farms justice. (Blakeley, p. 22; Addison, p. 15.) No correct system of cost keeping has ever been devised for the prison industries. (Barton, p. 14.) The method of checking supplies is defective. (Cabell, p. 19.)

#### The Factories.

The testimony of Judge W. H. Gill at Houston throws light on the question of prison manufacturing. He says:

"None of those manufacturing departments has ever been operated except at a loss. The convict can't lose his job, and if he gets sullen and feels he has been treated wrong, just one stroke of a hammer will queer a piece of machinery, and you don't know how or when it will happen. They have not made stuff that appealed to the market, and what they make is not made economically. Yet, some of them have to be kept in the walls, and they should be furnished employment." (W. H. Gill, p. 7.)

No factory at Huntsville or Rusk has ever paid, but some men have to be kept in the walls, and should be employed. (Barton, p. 9.)

These statements are sustained by abundant other testimony.

#### Cotton Growing.

One witness with an extended experience with the prison system says that the system should be moved several hundred miles further north into what he terms the cotton country. (J. A. Herring, p. 11.)

Numerous others testify that if the State can not make money growing cotton in the lower Brazos valley, it can not make money growing cotton anywhere in the world. (House, Trammell, Gill, Eldridge, Pierson, Bertram, and other.)

#### Discharged Convicts.

The records show that about fifteen per cent of the convicts discharged find their way back into prison again. Undoubtedly, when a convict is discharged from prison, he faces a crisis. Without wasting words on the subject, it would

seem profitable as a matter of public policy, and as a matter of humanity, to have a discharged-convict officer to assist the discharged ones in getting employment and another start in the world. Certain of the prison employes have done excellent work along this line. (A. E. King, p. 8.) But there should be a regular officer for the task.

#### Recommendations.

To the end that humane policies of treatment may be continued and financial loss wiped out or reduced to a minimum, I recommend legislation as follows:

1st. Abandonment of Rusk and Huntsville prisons; consolidation of the system at or near the city of Houston or some other centrally located point; that all prisoners be worked on farms owned by the State wherever possible; that such additional lands as may be necessary to carry out this policy be acquired; that additional lands be acquired in the vicinity of present holdings, or the present holdings be sold and other lands purchased elsewhere.

2nd. Creation of a board composed of the Comptroller, the Attorney General and the State Treasurer who shall appoint a general superintendent whose powers and duties shall correspond to the duties and powers of the superintendent under the old law, to receive a salary of not less than six thousand dollars per year.

3rd. Repeal of the convict per diem article.

4th. Sale of the Rusk-Palestine railroad if buyer can be found; if buyer can not be found, then it should be abandoned.

5th. That prison funds be paid into the State Treasury direct; that the system be supported by direct appropriation and that funds be paid out only on Comptroller's warrant.

6th. The installation of a complete and thorough system of bookkeeping, so as to account for each item received and each item or bit of money disbursed.

7th. Such revision of the article limiting the hours of labor as will require a good day's work of each prisoner, having due regard to his physical condition.

8th. State-wide suppression of the liquor traffic as soon as it can be done; until then such restrictive legislation as will reduce the sale of liquors to a minimum.

9th. That the grading and classifica-

tion of prisoners be left to the commission, but that whites, Mexicans and negroes be separated; that a separate camp or camps for incorrigibles be established and that wearing of stripes be abolished.

10th. That commissioners' salaries be reduced to \$6.00 per day and expenses while on official duty; that departmental feature of commission be abolished; that the members of the commission be not required to live at Huntsville; that they be not required to devote their entire time to the system.

11th. Complete revision of the salary list and employe list, and that all employes not in sympathy with the law be discharged; that the positions of farm manager, purchasing and sales agent, be created; that the powers of the prison auditor be so enlarged that the office may be useful; that all employes of the system be appointed by the prison commission, by and with the consent of the general superintendent.

12th. Venue of all suits by and against the prison commission should be laid in Travis county.

13th. That the articles of the new law providing for shipment of corpses of deceased prisoners, and furnishing transportation to discharged prisoners be repealed and the old law upon those points be re-enacted.

14th. That the commission be required to provide religious services and religious literature for the prisoners.

15th. That an officer to be known as the discharged-convict agent be appointed by the Commission, with the consent of the superintendent whose duty it shall be to assist discharge convicts to find work and get another start in the world.

16th. That all the testimony taken by the committee, the three audits of the system's books made by Mr. Huey, and these reports, be printed for the information of the people.

17th. That the new law remain as it now is except for the changes hereinbefore proposed.

I confidently believe that the adoption of the above and foregoing recommendations will enormously reduce the expenses of the system, and correspondingly increase the revenues, and insure to the prisoners better treatment than in the past.

HUMPHREY.